



**U.S. DEPARTMENT OF EDUCATION**

**PROTECTION AND ADVOCACY FOR  
ASSISTIVE TECHNOLOGY PROGRAM**

**ANNUAL REPORT FOR  
FISCAL YEAR 2005**



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ASSISTIVE TECHNOLOGY PROGRAM**

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**2009**

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## ABBREVIATIONS

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<b>AAC</b>	Augmentative and Alternative Communication
<b>ADA</b>	<i>Americans with Disabilities Act</i>
<b>AT</b>	Assistive Technology
<b>ATM</b>	Automatic Teller Machine
<b>AVT</b>	Auditory Verbal Training
<b>CAP</b>	Client Assistance Program
<b>CLASS</b>	Community Living Assistance and Support Services
<b>DME</b>	Durable Medical Equipment
<b>FY</b>	Fiscal Year
<b>ED</b>	U.S. Department of Education
<b>EPSDT</b>	Early and Periodic Screening, Diagnosis and Treatment
<b>GPRA</b>	<i>Government Performance and Results Act</i>
<b>HCBS</b>	Home and Community-Based Services
<b>I&amp;R</b>	Information and Referral Services
<b>IDEA</b>	<i>Individuals with Disabilities Education Act</i>
<b>IEP</b>	Individualized Education Plan
<b>NLS</b>	Neighborhood Legal Services
<b>P&amp;A</b>	Protection and Advocacy
<b>PAAT</b>	Protection and Advocacy for Assistive Technology
<b>PABSS</b>	Protection and Advocacy for Beneficiaries of Social Security
<b>PADD</b>	Protection and Advocacy for the Developmentally Disabled
<b>PAIMI</b>	Protection and Advocacy for Individuals with Mental Illness
<b>PAIR</b>	Protection and Advocacy for Individual Rights
<b>PASARR</b>	Pre-Admission Screening and Resident Review
<b>PATBI</b>	Protection and Advocacy for Individuals with Traumatic Brain Injury
<b>PAVA</b>	Protection and Advocacy for Voting Access
<b>PPR</b>	Program Performance Report
<b>RSA</b>	Rehabilitation Services Administration
<b>RTI</b>	RTI International
<b>SSDI</b>	Social Security Disability Insurance
<b>SSI</b>	Supplemental Security Income
<b>TBI</b>	Traumatic Brain Injury
<b>TDD</b>	Telecommunications Device for the Deaf
<b>TTY</b>	Teletypewriter
<b>VR</b>	Vocational Rehabilitation



## EXECUTIVE SUMMARY

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This document, the *Protection and Advocacy for Assistive Technology Program: Annual Report for Fiscal Year 2005*, describes the activities of, and outcomes produced by, the PAAT Program during the 12-month period ending Sept. 30, 2005. It is based on data collected through a Program Performance Report (PPR) form approved by the Office of Management and Budget (OMB). The PPR form and the Web-based reporting system that PAAT Program projects use to submit required information were developed by RTI International (RTI) and Neighborhood Legal Services, Inc. (NLS) under a grant from the U.S. Department of Education's (ED's) Rehabilitation Services Administration (RSA), which administers the PAAT Program.

The PAAT Program is part of the Protection and Advocacy (P&A) System, a long-standing network of nonprofit agencies (although in some states it is part of the state government) that provide disability-related advocacy services that are free of charge in each state, the District of Columbia, Puerto Rico, and the four outlying areas of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands. Each of the 56 P&A agencies sponsors a PAAT Program project; a 57th serves the Native American population through an American Indian consortium. Thus, this report is based on data from a total of 57 projects.

The P&A System, through its agencies, offers a wide range of advocacy services to persons with disabilities through several specific grants, each of which establishes a program with its own unique mandate. The majority of PAAT Program activities are driven by a fundamental goal: to get appropriate assistive technology (AT) devices and services into the hands of individuals with disabilities on a timely basis. Any individual with a disability who seeks funding for an AT device or service is eligible for PAAT Program services, regardless of the type of disability he or she has. When appropriate, this goal should include ensuring that the AT devices or services are obtained at no cost or at a limited cost to the individual with a disability or that individual's family. To a lesser extent, PAAT Program activities are directed toward ensuring that any individual with disabilities can benefit from AT devices supplied by public or private entities to allow that individual to fully participate in or benefit from the services offered by the entity in question.

This report presents information on:

- Agency administration, including funding, staffing, consumer involvement and collaborative activities;
- Non-case services (i.e., information and referral services, training and dissemination of materials) offered by PAAT Program projects;
- Case services (i.e., individual representation, including pursuit of client objectives through negotiation, mediation, administrative appeals and court actions) offered by PAAT Program projects;
- Individuals served by PAAT Program projects in FY 2005;
- The systemic activities that PAAT Program projects conducted in their efforts to change policies and practices that relate to an individual's ability to obtain or benefit from AT; and
- The priorities and accomplishments of PAAT Program projects in fiscal year (FY) 2005.

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## **AGENCY ADMINISTRATION**

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PAAT Program projects receive a minimum allotment of \$50,000 in federal funds each year, except Puerto Rico, the outlying areas and the American Indian consortium each receive \$30,000. Additional funds are awarded on the basis of population. They are generally staffed by both attorneys and non-attorney advocates, with advocates handling the bulk of the casework. Typically, attorneys handle litigation and complex systemic issues, while advocates carry out activities such as outreach, intake, technical assistance, information and referral, and non-litigation advocacy under an attorney's supervision. In FY 2005, individuals who had disabilities or who had family members with disabilities comprised 51 percent of P&A agency staff and 79 percent of board members. Many P&A agencies leverage resources other than those of the PAAT Program to help individuals with disabilities obtain and benefit from AT.

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## **NON-CASE SERVICES**

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In addition to the individuals for whom they open case files, PAAT Program projects assist many others by providing information and referral (I&R) services. These services include responses to individuals at meetings, one-time telephone discussions, and responses to requests

for information from individuals. In FY 2005, the 57 projects provided I&R services to nearly 10,000 individuals.

P&A agencies also offer training sessions for individuals with disabilities, their families and various community groups. The intent of these activities is, most often, to increase awareness about how AT is funded so that individuals with disabilities are more likely to obtain appropriate AT devices and services on a timely basis. In FY 2005, PAAT Program projects conducted more than 1,000 training sessions, which were attended by 68,225 individuals. P&A agencies also disseminate information about their services and information about the funding of AT through a variety of methods, including: Web sites; newspaper, magazine and journal articles; radio and TV appearances; and booklets, brochures and other publications.

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## **CASE SERVICES**

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PAAT Program projects provided case services to approximately 2,700 individuals during FY 2005. Case services included: legal services; supervised referrals (i.e., referrals with follow up to ensure that the referral was appropriate and completed); follow-up telephone calls to clients to provide information obtained by PAAT Program project staff about the person's legal rights or how he or she could obtain AT devices or services; and any other allowable service beyond I&R. The majority of those served (66 percent of clients) had all of their cases closed at the end of the reporting period. Nearly 1,500 individuals received AT devices and services as a result of casework during FY 2005. These individuals received a total of 1,756 devices and services (this number exceeded the number of individuals because one person could receive more than one device or service). In 61 percent of the cases closed in FY 2005, *all issues* were resolved in the client's favor; in an additional 15 percent of the cases closed, at least *some issues* were resolved in the client's favor.

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## **INDIVIDUALS SERVED IN FY 2005**

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PAAT Program projects served individuals with a wide variety of disabilities. Persons served in FY 2005 represented all age groups, ranging from birth to 65 years or older. More than half of the individuals served in FY 2005 (57 percent) were male; females accounted for 43 percent of participants.

The majority of individuals served (64 percent) by PAAT Program projects in FY 2005 were white. Thirteen percent identified themselves as being of more than one race. Eleven percent

were black, 3 percent were Native Hawaiian or Other Pacific Islander, 2 percent were Asian, and 1 percent of the individuals served were American Indian or Alaska Native. PAAT Program projects did not report the race of 6 percent of clients.

More than three-fourths of the individuals served (76 percent) were not of Hispanic or Latino origin. Fifteen percent were of Hispanic or Latino origin, and ethnicity was unknown or not reported for 9 percent of individuals served.

Forty-six percent of individuals served lived with their parents, a guardian or another relative. Thirty-six percent lived independently in settings other than public housing. Five percent lived in community residential homes and an equal percentage resided in public or private nursing facilities. Relatively few lived in foster care, were homeless or lived in Veterans Affairs hospitals. Most of the balance of individuals served lived in detention centers, public housing or institutional settings.

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## SYSTEMIC ACTIVITIES AND LITIGATION

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The PAAT Program projects reported on three types of systemic activities conducted to change policies and practices that relate to an individual's ability to obtain or benefit from AT devices or services more readily. These activities include:

- **Non-litigation.** This is defined as any systemic activity that occurs outside the context of a PAAT Program project's representation of individuals through litigation. For example, an agency might succeed in changing state Medicaid policies by assigning a staff member to serve on an advisory board.
- **Litigation and class action.** This includes any litigation, whether sought on behalf of one or more individuals or a class of individuals, in which one of the outcomes sought, is to make a permanent change in policies or practices of a governmental or nongovernmental entity, making AT devices or services more readily available for a class of persons with disabilities.
- **Litigation-related monitoring.** This includes conducting reviews of court orders or case settlements to examine issues related to matters resolved by individual or class action lawsuits. For example, a PAAT Program project that had previously settled a lawsuit resulting in the adoption of new Medicaid regulations concerning payment for specialized wheelchairs might monitor the settlement. In this case, communication with equipment

vendors, service providers and attorneys involved in Medicaid fair hearings would help to ensure that the new regulations were implemented.

The *Government Performance and Results Act (GPRA)* indicator for the PAAT Program is:

*The percentage of grantees who bring about changes in policies or practices through their systemic advocacy efforts.*

In FY 2005, 67 percent of PAAT Program projects reported achieving changes in policies or practices through either non-litigation activity or litigation and class action activity.

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## **PRIORITIES AND ACCOMPLISHMENTS**

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State P&A agencies are expected to prioritize how they deliver services through their PAAT Program projects. Priorities may identify, for example, the project's focus on: a particular funding source (e.g., Medicaid or special education programs); a particular age group (e.g., very young children or senior citizens); a particular type of AT (e.g., augmentative and alternative communication [AAC] devices or adaptive computer equipment); or an underserved group (e.g., individuals from an American Indian reservation or individuals residing in nursing homes). By prioritizing in this way, P&A agencies can tailor their services in ways that best meet the needs of individuals with disabilities in their state within the limits of available resources.

In FY 2005, PAAT Program projects reported priorities related to:

- **Challenging Medicaid's denial of funding for durable medical equipment (DME).** Many states cited as a priority the representation of individuals whose requests for approval of DME were denied. In fact, accomplishments involving Medicaid and DME were cited in nearly every PAAT report.
- **Advocating for AT in special education settings.** For children receiving special education services, pursuant to the *Individuals with Disabilities Education Act (IDEA)*, AT devices or services must be made available if they are part of the children's Individualized Education Programs (IEPs). Many states cited as a priority assisting children with disabilities to obtain the AT devices or services they need within the public school special education setting.
- **Obtaining needed AT devices through private insurance plans.**

- **Using the *Americans with Disabilities Act (ADA)* or Section 504 of the *Rehabilitation Act* to access community activities through the use of AT.** A number of states cited as a priority using the *ADA* or Section 504 of the *Rehabilitation Act* to attain access to community activities through the use of AT. The use of AT amounts to a “reasonable accommodation” under the *ADA* and Section 504.
- **Advocating for individuals residing in nursing homes or other institutional settings who need AT to increase their independence.** A number of states cited as a priority representing individuals with disabilities living in nursing homes or other facilities who can benefit from AT but face barriers to getting it.
- **Striving to obtain AT devices and services for individuals with disabilities through a variety of other priorities, including:**
  - Reaching out to underserved populations in targeted rural areas;
  - Assisting individuals with disabilities who need AT to make rental housing accessible;
  - Collaborating with state *Assistive Technology Act* projects to implement an equipment loan program;
  - Updating written materials to publicize the availability of AT from a variety of funding sources;
  - Enforcing state AT lemon laws; and
  - Reviewing state disaster-preparedness plans to ensure that the needs of persons with disabilities, including AT users, are taken into account.

# INTRODUCTION

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This document, the *Protection and Advocacy for Assistive Technology Program: Annual Report for Fiscal Year 2005*, describes the activities of, and outcomes produced by, the PAAT Program during the 12-month period ending Sept. 30, 2005. It is based on data collected through a Program Performance Report (PPR) form approved by the Office of Management and Budget (OMB) and distributed through policy directive RSA-PD-05-02.<sup>1</sup> The PPR form and the Web-based reporting system that PAAT Program projects use to submit required information were developed by RTI International (RTI)<sup>2</sup> and Neighborhood Legal Services, Inc. (NLS) under a grant from the U.S. Department of Education's (ED's) Rehabilitation Services Administration (RSA), which administers the PAAT Program.

The PPR form was developed by NLS, in collaboration with a group that included representatives of six state PAAT programs and the National Disability Rights Network (NDRN, then known as the National Association of Protection and Advocacy Systems), with final editing by RSA staff. NLS, in collaboration with RTI and an attorney from the Minnesota PAAT Program project, trained grantees in the use of the PPR form and Web-based system. NLS also provided technical assistance on programmatic issues. RTI developed and currently maintains the Web-based reporting system to collect the data required by the PPR. The PAAT Program is part of the Protection and Advocacy (P&A) system, a long-standing network of agencies that provide disability-related advocacy services that are available free of charge in every state, as well as the District of Columbia, Puerto Rico, and the four outlying areas of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands. This introduction provides an overview of the P&A system and the PAAT Program. We also describe data collection procedures and the limitations of the data collected through the Web-based reporting system.

Following the introduction is information on agency administration, including funding, staffing, consumer involvement and collaborative activities. The next two chapters describe the non-case services (i.e., information and referral services, training and dissemination of materials) and case services (including individual representation and other means of pursuing client

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<sup>1</sup> The policy directive is located at <http://www.ed.gov/policy/speced/guid/rsa/pd-05-02.doc>. The PPR form and instructions follow the policy directive.

<sup>2</sup> RTI International is a trade name of Research Triangle Institute.

objectives) offered by PAAT Program projects. Then, we present statistical information on individuals served by the PAAT Program in FY 2005, followed by descriptions of the systemic activities that PAAT Program projects conducted in their efforts to change policies and practices that relate to an individual's ability to obtain or benefit from assistive technology (AT). Finally, we describe the priorities and accomplishments of PAAT Program projects in FY 2005. The PPR form used to collect the data presented in this report, as well as the instruction manual for its completion, are included in the appendix.

## **THE PROTECTION AND ADVOCACY SYSTEM**

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The P&A System offers a wide range of advocacy services to persons with disabilities through several specific grants, each of which establishes a program with its own unique mandate. Each state has a designated state P&A agency. Most commonly, the designated agency is an independent not-for-profit entity, although in some states (e.g., Indiana and New York) it is part of the state government. The majority of these agencies deliver services through their own employees; in some cases, however, all or part of the services mandated under a particular program are delivered through a grant or are subcontracted to another entity. All P&A agencies employ, either directly or through subcontractors, attorneys and other advocates who serve eligible individuals with disabilities.

There are 57 P&A agencies: one each for the 50 states, the District of Columbia, Puerto Rico, and the four outlying areas of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands. The 57<sup>th</sup> agency is for an American Indian consortium, which was first funded in FY 2005. This report is based on data from these 57 PAAT Program projects.

Each P&A agency operates eight programs, including the PAAT Program:<sup>3</sup>

- **Protection and Advocacy for the Developmentally Disabled (PADD).** This program protects the legal and civil rights of individuals with developmental disabilities.
- **Protection and Advocacy for Individuals with Mental Illness (PAIMI).** This program protects and advocates for the rights of persons with mental illness and investigates reports of abuse and neglect.

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<sup>3</sup> See the National Disability Rights Network's Web site at [http://www.ndrn.org/aboutus/PA\\_CAPext.htm](http://www.ndrn.org/aboutus/PA_CAPext.htm) (accessed June 25, 2008) for a detailed description of each P&A program.

- **Protection and Advocacy for Individual Rights (PAIR).** This program protects and advocates for the legal and human rights of persons with disabilities who are not eligible to be served in the Client Assistance Program (CAP), PAIMI or PADD programs.
- **Protection and Advocacy for Assistive Technology (PAAT).** This program provides legal and nonlegal advocacy services for individuals with disabilities who are denied access to assistive technology devices and assistive technology services.
- **Protection and Advocacy for Beneficiaries of Social Security (PABSS).** This program provides funds for each state's P&A system to provide work incentive assistance to Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) beneficiaries seeking vocational rehabilitation and other support services to secure, retain or regain employment.
- **Protection and Advocacy for Individuals With Traumatic Brain Injury (PATBI).** This program ensures that individuals with traumatic brain injury (TBI) and their families have access to: information, referrals and advice; individual and family advocacy; legal representation; and specific assistance in self-advocacy.
- **Protection and Advocacy for Voting Access (PAVA).** This program aims to make access to the electoral process equal for all Americans. It funds P&A agencies to ensure participation by individuals with disabilities in all parts of the electoral process: registering to vote, accessing polling places and casting a vote.
- **Client Assistance Program (CAP).**<sup>4</sup> This program advocates for and protects the rights of individuals with disabilities who are seeking or receiving rehabilitation services.

The services offered by the eight P&A programs typically fall into one of the following categories:

- **Non-case services.** These include information and referral services, training and dissemination of materials.

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<sup>4</sup> Although the CAP does not carry the P&A name, it is generally considered to be a part of the P&A system. Like other P&A programs, it is a federally funded advocacy program that exists to serve persons with disabilities. The CAP is often housed within a designated P&A agency or one of its subcontractors.

- **Case services.** They entail individual representation, including pursuit of client objectives through negotiation, mediation, administrative appeals and court actions.
- **Investigations of allegations of abuse and neglect.** These are primarily a function of the PADD and PAIMI programs.
- **A range of systemic activities.** This comprises efforts to accomplish permanent changes in policy or practice through both litigation (including both class action and non-class action litigation) and other activities.

In addition, P&A staff members may serve on boards and committees that make decisions about the delivery of disability-related services, or establish policies that affect service delivery, within a state or a portion of a state. The PPR form is designed to collect information on all of these activities.

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## THE PAAT PROGRAM

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In this section, we describe the mandate and legal authority for the PAAT Program and present examples of the advocacy services it provides.

### ***The Mandate and Legal Authority for the PAAT Program***

The PAAT Program was created by the 1994 amendments to the *Technology-Related Assistance to Individuals with Disabilities Act of 1988*, which was reauthorized in 1998 as the *Assistive Technology Act of 1998*. The program is currently authorized under the *Assistive Technology Act of 1998*, as amended by the *Assistive Technology Act of 2004*. The program was administered by ED's National Institute on Disability and Rehabilitation Research (NIDRR) until 2004, when oversight responsibility was transferred to the Rehabilitation Services Administration (RSA).

The majority of PAAT Program activities are driven by a fundamental goal: to get appropriate AT devices and services into the hands of individuals with disabilities on a timely basis. Any individual with a disability who seeks funding for an AT device or service is eligible for PAAT services, regardless of what type of disability he or she has. Where appropriate, this goal should include ensuring that the AT devices or services are obtained at no cost, or at a limited cost, to the individual with a disability or that individual's family.

To a lesser extent, PAAT Program activities are directed toward ensuring that individuals with disabilities can benefit from AT devices supplied by public or private entities to allow the

individual to fully participate in or benefit from the services offered by the entity in question. As spelled out in later sections of this report, this includes AT that allows an individual to, for example, reside in rental housing, use public transportation, access public and private businesses, maintain employment, and exercise the right to vote. The authorizing legislation does not limit the types of AT devices or services that PAAT Program casework may involve.

As defined by the *AT Act of 1998*:

The term “assistive technology device” means any item, piece of equipment or product system, whether acquired commercially, modified or customized, that is used to increase, maintain or improve functional capabilities of individuals with disabilities. ... The term “assistive technology service” means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.<sup>5</sup>

AT services include: evaluations to determine the need for a device; customizing or adapting the device for its user; repairs; maintenance; and training on how to use the device.

### ***Examples of PAAT Advocacy Services***

PAAT Program projects have successfully assisted individuals with disabilities in obtaining AT devices and services from numerous funding sources, including Medicaid, Medicare, private insurance companies, special education programs and state vocational rehabilitation (VR) agencies. Medicaid and special education programs are the most common areas of focus for PAAT Program projects.

PAAT Program projects regularly advocate for a wide range of AT devices (often called durable medical equipment by programs like Medicaid and Medicare), including items such as custom and power wheelchairs, augmentative and alternative communication (AAC) devices, adaptive computer equipment and software, low-vision aids, and access ramps and lifts for the home. Much of the successful advocacy in the Medicaid and Medicare context has occurred through representation at administrative hearings. Additionally, a number of successful court actions filed by PAAT Program attorneys have resulted in state Medicaid agencies and other funding sources being required to pay for a range of new and often expensive technology that has emerged in the marketplace.

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<sup>5</sup> 29 *United States Code* §§ 3002(a)(3) & (4).

## **DATA COLLECTION AND LIMITATIONS**

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Several mechanisms are in place to improve the consistency and quality of data reported through the Web-based system. The PPR form consists primarily of closed-ended items (although it also includes some open-ended items). To guard against mathematical errors and inconsistencies, the Web-based system automatically calculates totals and, where appropriate, checks for consistent responses to quantitative items. An online instruction manual presents numerous examples of the types of information that should be included in narrative responses. As a supplement to the instruction manual, the Web system includes a Q&A document, prepared by NLS, which provides answers to frequently asked questions. Each section of the reporting form also contains links to important definitions and instructions so that states can quickly obtain pertinent information without having to review the entire instruction manual. RTI staff provide technical assistance on computer-related issues and NLS staff offer technical assistance on programmatic issues year-round via e-mail or telephone.

Training on the PPR and the Web-based system was provided by NLS, with assistance from RTI and a Minnesota PAAT Program attorney, at several national conferences in 2005, including the NLS Bridges to Advocacy conference in Austin, Texas; the National Disability Rights Network's (NDRN) annual conference in Orlando, Fla.; and the annual P&A-CAP meeting in Washington, D.C., sponsored by NDRN. NLS also offered two teleconference training sessions in October 2005. In addition, NDRN (through a subcontract with NLS) provided grantees using its Disability Advocacy Database System (DADS) for case management with several hours of training on the collection of data required by the PPR.

There are limitations to the data collected through the Web-based system, however. Reliance on aggregate, or summary, data limits the types of analyses that can be conducted. For example, the system cannot produce an unduplicated count of individuals served by the program, create new subsets, or carry out cross-tabulations that involve two variables. Moreover, assessment of data quality is beyond the scope of the grant under which RTI and NLS assist RSA in its data collection efforts. For the purposes of this report, it is assumed that data reported by grantees are accurate and that those data are an adequate representation of program performance.

Our analyses of the FY 2005 data included: a brief examination of each grantee's report; an investigation of a few anomalies apparent in aggregate data; a review of the range and

distribution of responses for all items; and an examination of “other - specify” responses.<sup>6</sup> Through these analyses, we identified several instances where grantees may have found it difficult to provide data required by the PPR form, especially since some had not collected all of the required information in the past. In this report, we have noted our concerns about a small number of data elements to inform readers’ interpretations of the data and to suggest areas where additional clarification of instructions or added emphasis in training may be appropriate.

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<sup>6</sup> Since the PPR is the grantee’s official report to RSA, we do not modify responses, nor do we generally attempt to recode “other - specify” responses into existing categories.



## AGENCY ADMINISTRATION

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In this section, we present descriptive information about the administration of PAAT Program projects, including funding available to them, their staffing, the ways in which they involve consumers, and the collaborative activities they conduct.

### FUNDING

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PAAT Program projects receive a minimum allotment of \$50,000 in federal funds each year, except the outlying areas, Puerto Rico and the American Indian consortium each receive a minimum of \$30,000.<sup>7</sup> Additional funds are awarded on the basis of population. The PPR asks projects to report the total amount of funds *used* in the current fiscal year (instead of the amount of funds *allocated*) as an indication of the financial resources actually devoted to serving persons with disabilities during the reporting period. It also collects information on the amount of funding that came from: (1) federal allocations for the current year; (2) federal funds carried forward from the previous year; (3) program income from sources such as attorney's fees awarded by the courts and non-P&A federal funds; and (4) other sources. The 57 projects reported using a total of \$5,830,721, including funds from all sources, in FY 2005.<sup>8</sup> Total amounts used by individual projects ranged from \$20,000 to more than \$400,000, with a median of \$69,210.

The majority of expenditures (54 percent) came from the FY 2005 federal allocation. Carryover funds of \$2,349,843 accounted for an additional 40 percent of funds used. Forty projects reported the use of carryover funds in amounts ranging from \$3,334 to \$367,061. The median amount of carryover funds used was \$29,894.

Only 5 percent of expenditures (\$276,192, reported by 10 projects) came from program income. Less than 1 percent of expenditures (\$36,336, reported by three projects) came from other sources such as grants and state funding.

### STAFFING

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PAAT Program projects are generally staffed by both attorneys and non-attorney advocates, with attorneys handling the bulk of the casework. Typically, attorneys handle litigation and

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<sup>7</sup> Outlying areas are American Samoa, Guam, the U.S. Virgin Islands and the Commonwealth of the Northern Mariana Islands.

<sup>8</sup> One project entered a figure of \$5 million in federal funding, which was apparently a keying error. We assumed a figure of \$50,000 for this project.

complex systemic issues, while advocates carry out activities such as outreach, intake, technical assistance, I&R, and non-litigation advocacy under an attorney's supervision. Due to funding constraints, many staff members were not assigned solely to the PAAT Program project, but were also assigned to other P&A projects.

Several projects noted that their P&A agencies had adopted a team or integrated approach to staffing. For example, South Carolina reported that a team approach allowed the agency to more effectively address its priorities, which cut across programs, and to improve coordination among programs. Administrators noted that this approach also allowed staff members to develop specialized knowledge in one of the five subject areas, by which the teams were organized: outreach, information and referral; conditions in facilities; equal access; community integration; and education.

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## CONSUMER INVOLVEMENT

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As one measure of consumer involvement, the PPR requires that data be collected on: (1) the number of P&A agency staff who either have disabilities themselves or have family members with disabilities; (2) the number of P&A agency board members who either have disabilities themselves or have family members with disabilities; and (3) the total number of persons on P&A agency staff and boards.<sup>9</sup> (Data are for staff of the entire P&A agency, not the PAAT Program alone.)

In FY 2005, the 57 P&A agencies employed 882 individuals who either had disabilities themselves or had family members with disabilities. The total number of persons on P&A staffs was 1,720; thus, individuals who had disabilities or had family members with disabilities made up 51 percent of P&A agency staff according to data reported by the PAAT Program projects.<sup>10</sup> The boards of the 57 P&A agencies included 537 individuals who either had disabilities themselves or had family members with disabilities. The total number of persons on P&A boards was 679; thus, individuals who had disabilities or had family members with disabilities made up 79 percent of P&A boards according to data reported by the PAAT Program projects.

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<sup>9</sup> "Boards" include boards of directors and, if appropriate, corresponding state government-level advisory bodies.

<sup>10</sup> In several cases, respondents entered "0" for the total number of agency staff or board members. There were also several cases in which individuals who had disabilities or had family members with disabilities were reported to have represented more than 100 percent of the agency's staff or board, suggesting that a few grantees may have misunderstood the instructions for this item.

In addition to consumer representation on agency staffs and boards, PAAT Program projects also cited a variety of other ways in which their agencies involved consumers:

- Conducting public hearings, focus groups and listening sessions to obtain input on agency priorities and activities;
- Asking disability-related organizations for input;
- Distributing requests for comments through other organizations;
- Using their Web pages to conduct surveys or obtain comments;
- Soliciting input through agency newsletters;
- Conducting surveys at training sessions, outreach events and other activities;
- Conducting surveys by mail and telephone;
- Encouraging staff to serve on statewide AT programs advisory councils, the majority of whose members are consumers;
- Using e-mail distribution lists to solicit input on agency priorities and activities;
- Including consumers on advisory groups established to provide input on needs, priorities and activities; and
- Obtaining feedback from individuals served through client satisfaction surveys.

P&A programs are required to establish grievance procedures to handle any complaints received by clients regarding services received (or not received) from an agency under the PAAT Program. Only five agencies reported that grievances were filed against them in FY 2005. Three of the five agencies reported one grievance each; one reported two, and one reported three.

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## **COLLABORATIVE EFFORTS**

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One purpose of the PAAT Program is to stimulate involvement in AT-related advocacy, both among P&A programs and within the larger advocacy community. Many P&A agencies leverage resources other than those of the PAAT Program to help individuals with disabilities obtain and benefit from AT. In this section, we provide examples of P&A activities that were supported by funds other than those of the PAAT Program. We also describe the ways in which P&A agencies

collaborate with other programs outside of their individual agency to improve consumer access to AT.

### ***Collaboration With Other P&A Programs***

Individuals who are eligible for both the PAAT Program and another P&A program may be served by either program, depending on agency resources and policies; or, staff of other programs may find during the course of addressing broader issues that the individuals they serve also need AT. In their reports for FY 2005, PAAT Program projects cited numerous examples of ways in which other programs within their agencies helped individuals with disabilities obtain and benefit from AT, including the following:

- In California, PAAT Program project staff supported by nonfederal funds worked on two pieces of legislation that will help people with disabilities obtain AT. The first, enacted in FY 2005, broadened eligibility requirements for a loan program that provides funds for the purchase of AT. The second, which is still pending, establishes an interest-free loan program that will help low- and moderate-income individuals who are elderly or have disabilities make home improvements that allow them to continue living at home.
- Staff of California's P&A for Individuals With Traumatic Brain Injury (PATBI) and P&A for the Developmentally Disabled (PADD) projects helped a young girl who had recently suffered a traumatic brain injury return home rather than go to a nursing facility far from her family. Initially, home health nursing agencies were unwilling to provide the nursing hours required for the technology-dependent child at the rate established by the state's Medicaid program. P&A staff successfully advocated for a higher rate, which enabled the child to return home.
- In Delaware, the P&A agency continued to monitor implementation of a settlement agreement that required the state's Department of Transportation to install curb ramps that were omitted from some completed road work. When installed, the ramps will enable individuals who use mobility-related AT, such as wheelchairs, scooters, canes and walkers, to access the roads and streets.
- PAAT Program projects in several states cited the activities of their P&A for Voting Access (PAVA) projects, which were created by federal legislation (the *Help America Vote Act*) in 2002. PAVA projects worked to improve access to polling places for

individuals with disabilities through activities such as accessibility surveys, training for polling place workers and input on the selection of voting equipment.

- Nevada's P&A agency inspected four federal courthouses for accessibility and found that one had a door too heavy for a person with a disability to open, while another did not have a sufficient number of accessible parking spaces. The P&A agency worked with the state and its U.S. senator to correct the problems.
- North Dakota's PATBI project hired an AT expert to assess the needs of eight individuals with traumatic brain injuries. Project staff then worked with these individuals to develop action plans for addressing their needs. As a result, some who were living in institutions have been able to move back into the community.

PAAT Program staff may: serve as a resource to help other P&A programs address AT issues; join in collaborative efforts to conduct training, technical assistance or outreach; or work with other programs to address systemic issues. Examples of collaboration with other P&A programs, reported in FY 2005, include:

- In Georgia, PAAT Program project staff worked with the PADD program, which assists persons with developmental disabilities, to help three women who resided in an institution and were unable to communicate with others. The PAAT Program project provided guidance on obtaining a formal evaluation of the women's needs, locating resources that were available to the women through an independent living center, and undertaking the process for obtaining AAC devices.
- In New Hampshire, the PAAT Program was one of several P&A programs involved in a class action lawsuit on behalf of individuals with TBI who needed community services under a Medicaid waiver program. Without services that enable them to live in the community, many of these individuals must be institutionalized at a higher cost to the state.
- South Dakota's PAAT and PAIR programs collaborated on an educational campaign to encourage nursing homes to provide TTYs and TDDs for use by their residents.
- In Louisiana, the PAAT Program project collaborated with the PADD program to improve public transportation for persons with disabilities in several major cities.

- In American Samoa, the PAAT Program project worked with other P&A programs to conduct an island wide assessment of the needs of persons with disabilities.

### ***Collaboration With Other Programs Outside the Agency***

P&A agencies also collaborate with other entities in order to accomplish their goals. In their reports for FY 2005, the 57 PAAT Program projects cited many examples of such collaborations. Although space constraints prevent us from describing all of those activities in this section, we describe some of the more commonly reported activities below. These included collaboration with statewide AT programs, state-level councils and committees, and disability-related and other nonprofit organizations.

#### ***Collaboration With Statewide AT Programs***

P&A agencies collaborated in a variety of ways with statewide AT programs authorized under the *Assistive Technology Act of 1998*. Collaboration with these programs, which were created to improve access to and acquisition of AT, included P&A agency staff serving on advisory boards and providing input on the AT programs state plans. PAAT Program projects reported that their parent agencies both referred individuals to and received referrals from statewide AT programs. P&A agencies and AT programs cooperated to offer training sessions, conduct outreach, organize expositions and other events to raise awareness about AT and address systemic issues. Two PAAT Program projects noted that their P&A agencies worked with statewide AT programs to implement loan programs that provide individuals with funds for the purchase of AT.<sup>11</sup>

#### ***Collaboration With State-Level Councils and Committees***

P&A agencies worked with and were often represented on state-level councils that addressed issues related to the needs of persons with disabilities, many of whom might benefit from AT. These included developmental disabilities councils, independent living councils, rehabilitation councils, long-term care planning committees, and governors' councils. P&A agencies also participated in many state-specific groups that brought together agencies and organizations involved with individuals with disabilities and AT. For example, Florida's P&A agency participated in an interagency workgroup that was developing five-year strategic plan for improving the transition of students with disabilities from school to work or postsecondary education.

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<sup>11</sup> Since this is an open-ended item, it is possible that other states also conducted the same activity but did not mention it. This is also the case for other items in the PPR calling for narrative responses.

### *Collaboration With Disability-Related and Other Nonprofit Organizations*

PAAT Program projects reported that their parent agencies collaborated with a wide variety of disability-related and nonprofit organizations, including advocacy groups and service providers. A few examples of such efforts include those cited by the following states:

- California: The P&A agency collaborated with several organizations to improve outreach to the state's 107 American Indian tribes. This agency also worked with an organization representing Vietnamese parents of disabled children to provide the parents with information about the resources available to them and about disability rights.
- Connecticut: The P&A agency worked with a nonprofit service provider that operates an AT demonstration and recycling program to organize a conference for business owners. The conference allowed business owners to try out AT equipment and, according to the PAAT Program project, to learn "... how the right technology can transform [the] work environment for everyone, with or without a disability."<sup>12</sup>
- Illinois: The P&A agency worked with numerous organizations to monitor implementation of a successful lawsuit concerning accessible transportation.

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<sup>12</sup> As reported on Connecticut's FY 2005 PAAT Program Performance Report.



## **NON-CASE SERVICES**

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In this section, we describe the non-case services provided by PAAT Program projects, including information and referral (I&R) services, training activities and dissemination of information to the public. We also provide examples of external media coverage of PAAT Program activities.

### **INFORMATION AND REFERRAL SERVICES**

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In addition to the individuals for whom they open case files, PAAT Program projects assist many persons by providing I&R services. These services include responses to individuals at meetings, one-time telephone discussions and responses to requests for information from individuals. In FY 2005, the 57 projects reported providing I&R services to nearly 10,000 persons.<sup>13</sup>

The number of individuals who received I&R services varied widely among projects. Twenty agencies (37 percent of the 54 agencies that were able to report the number served) served 10 or fewer individuals, and 22 agencies (41 percent) served between 11 and 99 persons. Twelve agencies (22 percent of the 54) reported providing I&R services to 100 or more individuals, with three of those 12 serving more than 1,000. Three agencies were unable to report the number of individuals who received I&R services or the number of requests. In one of these states, an entity other than the PAAT Program project is responsible for I&R.<sup>14</sup>

In most cases, the number of individuals receiving I&R services was the same as the number of I&R requests, indicating that a single individual rarely made more than one request. Eight projects reported a number of requests that exceeded the number of individuals served.

### **TRAINING ACTIVITIES**

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P&A agencies also offer training sessions for individuals with disabilities, their families and various community groups. Training sessions take many forms, including in-person and distance learning (e.g., teleconferences and Web-based training), short presentations, and full- or multi-

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<sup>13</sup> The number of individuals who received I&R services was 9,652. Since a single individual may make more than one request for service, the number of requests for I&R services should have been equal to or greater than the number of individuals served. However, the total number of requests (9,231) was actually lower, primarily due to figures reported by two agencies, for which there were large discrepancies between the numbers of individuals served and the numbers of requests.

<sup>14</sup> The other two states may have had difficulty providing this information because FY 2005 was the first year in which they were required to do so. It is also possible that the figures for I&R services may have been recorded under another P&A grant.

day conferences. Nearly every state or territory devotes some resources to training through its PAAT Program project. Typically, the purpose of the training is to reach individuals with disabilities, their family members, advocates, attorneys and individuals who work for a range of service providers that serve individuals with disabilities. As detailed below, the intent of these activities is most often to increase awareness about how AT gets funded so that individuals with disabilities are more likely to obtain appropriate AT devices and services on a timely basis.

### ***Number of Training Programs and Individuals in Attendance***

Fifty-four of the 57 PAAT Program projects conducted at least one training event during the reporting period. Collectively, they held 1,163 training sessions, which were attended by 68,225 individuals. Fourteen projects (26 percent of the 54) reported training up to 200 participants each. Twenty-five projects (46 percent) served between 200 and 1,000 persons each. Fifteen projects (28 percent) trained more than 1,000 persons each, with two of the 15 reporting more than 10,000 each.

Twenty-six of the 54 PAAT Program projects (48 percent) offered 10 or fewer training sessions, although a small number of sessions did not necessarily indicate a small number of trainees: Some of these projects reported training more than 300 individuals each. Thirteen projects (24 percent of the 54) offered between 11 and 20 sessions, and 11 projects (20 percent) offered between 21 and 50 sessions. Four PAAT Program projects (7 percent) provided more than 50 training sessions; one of these four offered 134 sessions and another offered 249.

### ***Topics Covered in Training Programs***

Major topics of PAAT Program training events included the following:

- **Information on funding sources for AT.** These training sessions provided information on Medicaid, Medicare, special education, vocational rehabilitation and private insurance.
- **Accessibility issues faced by persons with disabilities.** These training sessions provided information on antidiscrimination laws—such as the *Americans with Disabilities Act*, Sections 504 and 508 of the *Rehabilitation Act*, and state-specific laws—and the reasonable accommodations mandated under those laws. Individual sessions dealt with a wide range of situations in which a lack of accessibility could be a barrier to voting, public transportation, rental housing, employment and student testing.

- **Self-advocacy skills.** These training sessions provided information about legal rights to persons with disabilities, parents and other groups as well as information on AT devices and services, and how to maintain a network of support.
- **P&A program services.** These training sessions provided information on the services available through the PAAT Program and how to access those services.

Some training programs found novel topics for their sessions, including one on disability etiquette presented by the Alabama PAAT Program project.

### ***Audiences Reached Through Training Programs***

PAAT Program projects reached a wide range of audiences through their training programs, including:

- Persons with disabilities, parents and other family members;
- School personnel and educators, including special education staffs;
- Undergraduate, graduate and professional students, including law students;
- Physicians, clinicians, social workers, physical and occupational therapists, speech pathologists, and other medical professionals;
- Landlords and property managers, employers, and church pastors and officials;
- Attorneys, advocates and court personnel; and
- Staff from various service providers.

### ***Examples of Training Programs Delivered by PAAT Program Projects***

In this section, we present examples of how PAAT Program projects attempted to reach the broadest possible audience, reach out to minority and underserved communities, and increase the independence of persons with disabilities through their training programs.

#### ***Reaching the Broadest Possible Audience***

- Every semester, professors at the University of Iowa Law School taught second- and third-year students about key AT funding sources, including Medicaid, Medicare, vocational rehabilitation, special education programs, Workers' Compensation, private insurance plans and programs funded under Section 504 of the *Rehabilitation Act* and the

*Americans with Disabilities Act.* This weekly training prepared students to advocate for and represent people with disabilities.

- Vermont's PAAT Program project trained both newly elected and returning state legislators on the state's health care programs. The purpose of the training was to increase the legislators' awareness of laws, regulations, policies, procedures, practices and organizational structures that facilitate the availability or provision of AT devices and services.
- North Dakota's PAAT Program project sponsored an AT expo for consumers, their family members and guardians, service providers, school personnel, and advocacy staff. The expo was attended by 276 people. A broad range of topics was presented, such as: the benefits of AT in high school, college and the workplace; AT and attention problems for adults in the workplace; AT in the early childhood classroom; an overview of augmentative communication devices and funding solutions; and alternatives for vision, universal design and computer access. In addition, 40 vendors set up display booths and provided attendees with information regarding available AT equipment and services.
- Hawaii's PAAT Program project routinely held a training workshop to explain AT and identify possible funding sources and resources. Each work group is geared to meet the needs of participants at that particular training session. Attendees were as diverse as members of parent-teacher organizations, school counselors, provider groups serving families of persons with disabilities, vocational rehabilitation staff and the state's Department of Health's Developmental Disabilities Division staff.

#### *Serving Minority and Underserved Communities*

- South Carolina's PAAT Program project conducted a training session targeted specifically to the needs of persons with disabilities who were members of rural or minority communities.
- Wyoming's PAAT Program project reached out to American Indians with information regarding AT and the availability of PAAT services to persons on the Wind River Reservation.

- South Dakota's PAAT Program project and the Native American Protection and Advocacy Project both centered training events around the availability and provision of AT to the Native American population, with special emphasis on early childhood, middle school and post-high school transition.
- Texas' PAAT Program project educated parents of children with disabilities who live in colonias, which are unincorporated, unregulated and underserved areas along the U.S.-Mexico border. Topics included special education, the ADA and how AT relates to a child's right to a free and appropriate public education.
- Vermont's PAAT Program project offered information regarding Medicaid and Medicare eligibility and appealed to individuals who used a health care clinic for the homeless.
- Oklahoma's PAAT Program project provided a basic-rights training to Hispanic parents who had recently immigrated to the United States.
- California's PAAT Program project offered training to Cantonese-speaking parents in San Francisco's Chinatown. The intensive, two-day training on special education, language access and access to AT emphasized parent empowerment and advocacy skills. Materials were translated into Cantonese.

*Increasing the Independence of Persons With Disabilities*

- Pennsylvania's PAAT Program project conducted an interactive presentation on acquiring funding for the AT individuals may need to transition from nursing homes to the community. It was attended by staff from agencies on aging, nursing home transition staff and local partners. This project also designed a training program for physicians and other medical personnel to increase their awareness of community resources so that they could better serve as advocates for full inclusion for children with special health-care and AT needs.
- New Jersey's PAAT Program project conducted a training program for disability service coordinators regarding how distance training can be made accessible for students with disabilities.
- Connecticut's PAAT Program project provided a training program for residents of an independent living complex about fair housing rights, including the right to AT.

- Nebraska's PAAT Program project trained residents and staff of a center for independent living on the P&A system and how to access PAAT Program services.
- Guam's PAAT Program project trained persons with disabilities on how AT can be used to increase individual independence in daily living.

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## INFORMATION DISSEMINATED TO THE PUBLIC

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P&A agencies disseminated information about their services and information about funding of AT through a variety of methods. As shown in table 1, Web sites maintained by P&A agencies recorded more than 10 million "hits" in FY 2005. The agencies also prepared several hundred newspaper, magazine and journal articles. Their staff members made 175 radio and TV appearances, and they arranged to have aired public service announcements and videos. Other dissemination methods used included press releases, flyers, presentations, public information booths, fact sheets, use of electronic mailing lists, public listening sessions, exhibits and participation at community legal clinics. The 57 projects also reported preparing a total of 98,239 publications, including booklets and brochures; however, it appears likely that some respondents did not understand the instructions for this item.

**Table 1. Methods of Information Dissemination Used by  
P&A System Agencies, by Number Reported: FY 2005**

Method of Information Dissemination	Number Reported
Radio and TV appearances by agency staffs	175
Newspaper, magazine and journal articles prepared by agency staffs	329
Public service announcements and videos	78
Agency Web site hits <sup>a</sup>	10,557,045
Booklets, brochures and other publications disseminated by the agencies <sup>b</sup>	98,239
Other <sup>c</sup>	97

<sup>a</sup> Includes all hits on P&A agency Web sites; not broken down by P&A program.

<sup>b</sup> Although instructions called for projects to count each item only once (e.g., 300 copies of one brochure should have been counted only once), 31 projects reported distributing more than 30 different booklets, brochures and other publications each, with approximately half of the 31 projects reporting the distribution of more than 1,000 of those items.

<sup>c</sup> The table does not include seven cases in which projects reported the total number of items disseminated rather than the number of methods used.

## EXTERNAL MEDIA COVERAGE

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In this section, we present examples of external media coverage reported by the PAAT Program projects. The following examples focus specifically on AT; PAAT Program projects also reported many additional items that relate to broader agency activities.

- California's PAAT Program project reported radio coverage of its special education advocacy, including advocacy for students who use AT, on the Parent Radio Program sponsored by the Sacramento Unified School District. The program, which has an audience of approximately 10,000 listeners, targets monolingual groups, including individuals who speak Hmong, Spanish and Slavic languages
- Georgia's PAAT Program project collaborated with other organizations to conduct a press conference about a proposed budget cut that would deny individuals who are dependent on ventilators and AT the level of support they needed to remain in their homes rather than being returned to nursing homes.
- A member of the District of Columbia's staff was interviewed by the *Washington Post* about the latest developments in AT.
- Kentucky's PAAT Program project created a video titled "The Rest of Your Life," about the transition from childhood to adulthood. The video featured youths who used AT.
- New Jersey's PAAT Program project cited the article "No Wheelchair Ramp at Funeral Home Causes Double Grief" published in a local newspaper. It described a wheelchair user who was unable to attend a funeral because the funeral home lacked an accessible entrance. The PAAT Program project subsequently provided the facility with technical assistance concerning modifications.
- Rhode Island's PAAT Program project prepared posters to place in nursing homes, advising residents that the PAAT Program project was available to help residents access AAC devices.
- The role of American Samoa's PAAT Program project in disaster-preparedness planning was publicized by the island's emergency management agency (American Samoa Territorial Emergency Management Coordination, TEMCO) as part of National Disaster

Preparedness Month. The project worked with the agency to develop plans for evacuating and assisting individuals with disabilities during a disaster.

- Hawaii's PAAT Program projects staff members discussed the P&A agency on a local radio program. They provided listeners with information about AT, including a description of the PAAT Program, examples of AT devices, sources of funding, and community services and supports.

## CASE SERVICES

In this section, we provide information on the case services offered by PAAT Program projects, including individuals served, problem areas and complaints, AT devices and services received, reasons for closing case files, and intervention strategies for closed cases.

### INDIVIDUALS SERVED

As shown in table 2, PAAT Program projects provided case services to almost 2,700 individuals during FY 2005. These individuals received legal services, supervised referrals (i.e., referrals with follow-up to ensure that the referral was appropriate and completed), and follow-up telephone calls to provide information about their legal rights or how to obtain AT devices or services and any other allowable services beyond I&R.

Seventy percent of individuals receiving case services were new clients who sought agency assistance for the first time during FY 2005. The majority of those served (66 percent of new and “carryover” clients) had all of their cases closed<sup>15</sup> at the end of the reporting period.

**Table 2. Number and Percentage of Individuals Served by PAAT Program Projects, by Case Status: FY 2005**

Individuals	Number	Percent
<i>Individuals being served at the start of FY 2005 (carried over from FY 2004)</i>	821	30
<i>Individuals who began receiving services in FY 2005</i>	1,872	70
Total number of individuals served in FY 2005	2,693	100
<i>Individuals whose cases were closed in FY 2005</i>	1,770	66
<i>Individuals with cases still open at the end of FY 2005</i>	923	34
Total number of individuals served during FY 2005	2,693	100

PAAT Program projects served an average of 47 clients, with a median of 23, although the number served by individual agencies varied widely. Twelve projects (21 percent) provided case services to fewer than 10 individuals, and 12 projects (an additional 21 percent) served between 10 and 20 individuals. Thirty-three projects (58 percent) served more than 20 persons. This group included eight states that served more than 100 clients during the reporting period.

<sup>15</sup> More than one case can be opened for a single individual, if appropriate.

## PROBLEM AREAS AND COMPLAINTS

As shown in table 3, more than one-third (34 percent) of complaints handled by PAAT Program projects in FY 2005 were related to health care, including problems with Medicaid, Medicare, private medical insurance and other health care issues. Complaints related to education (not including postsecondary education) were the next most common, accounting for 21 percent of cases. Issues concerning architectural accessibility (i.e., architectural barriers or other building accessibility problems in public and private buildings) represented 10 percent of FY 2005 cases. Seven percent of cases concerned rehabilitation services (e.g., enforcement of rights against state VR agencies, employment networks under the Ticket to Work program or private rehabilitation agencies). Six percent of cases were related to transportation, 3 percent to employment discrimination and 3 percent to housing. Cases concerning voting (e.g., accessible polling places, equipment or registration), postsecondary education, and Supplemental Security Income (SSI)/Social Security Disability Insurance (SSDI) work incentives each accounted for 1 to less than 1 percent of complaints. The “Other” category, which accounted for 16 percent of cases, included a wide variety of responses, such as: prison medical services; access to medical treatment and services; managed care; other state-funded insurance programs; and access to durable medical equipment.

**Table 3. Number and Percentage of Cases Handled by PAAT Program Projects, by Complaint Area: FY 2005**

Complaint Area	Cases Handled	
	Number	Percent
TOTAL	2,917	—
Health care (total from components below)	986	34
<i>Medicaid</i>	659	
<i>Medicare</i>	83	
<i>Private medical insurance</i>	72	
<i>Other health care<sup>a</sup></i>	172	
Education (other than postsecondary)	623	21
Architectural accessibility	284	10
Rehabilitation services	199	7
Transportation	161	6
Employment discrimination	80	3
Housing	74	3

See notes at end of table.

**Table 3. Continued**

Complaint Area	Cases Handled	
	Number	Percent
Voting		
<i>Accessible polling place and equipment</i>	8	
<i>Registration</i>	9	
Total Voting	17	1
Postsecondary education	20	1
SSI/SSDI work incentives	11	<1
Other	462	16

Note: Percentages may not sum to 100 due to rounding.

<sup>a</sup> Includes 19 cases that were incorrectly reported under "Voting—other."

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### ASSISTIVE TECHNOLOGY DEVICES AND SERVICES RECEIVED

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Many persons with disabilities can benefit greatly from AT, including those with physical, visual, cognitive and hearing impairments. AT devices can help individuals perform activities of daily living (dressing, bathing, eating), allow them to live independently, and in some cases allow them to attend school, receive training, leave the home, travel to work, or perform work. The following AT devices can allow a person to overcome the limitations imposed by a disability:

- Power and custom-made wheelchairs;
- Augmentative and alternative communication devices;
- Adaptive strollers and tricycles;
- Environmental control units;
- Lifting devices, such as Hoyer lifts and ceiling track lifts;
- Vehicle modifications, including wheelchair lifts and hand controls;
- Computer equipment and adaptations, including Braille printers, voice output, touch screens, and switches that allow computer access through voluntary movements such as eye blinks or head movements;
- Assistive listening devices, including hearing aids and personal FM units;
- Home modifications, including ramps, lifts and stair glides;

- Work site modifications, including adapted office equipment and environmental control devices; and
- Classroom modifications, including adaptive seating systems.

These devices and others have been obtained for persons with disabilities through a wide range of funding sources, including: states' special education systems; state VR agencies; state Medicaid programs; Medicare; the SSI through its Plan for Achieving Self Support; and many others. Sometimes a device will be funded only following an administrative hearing or court appeal.

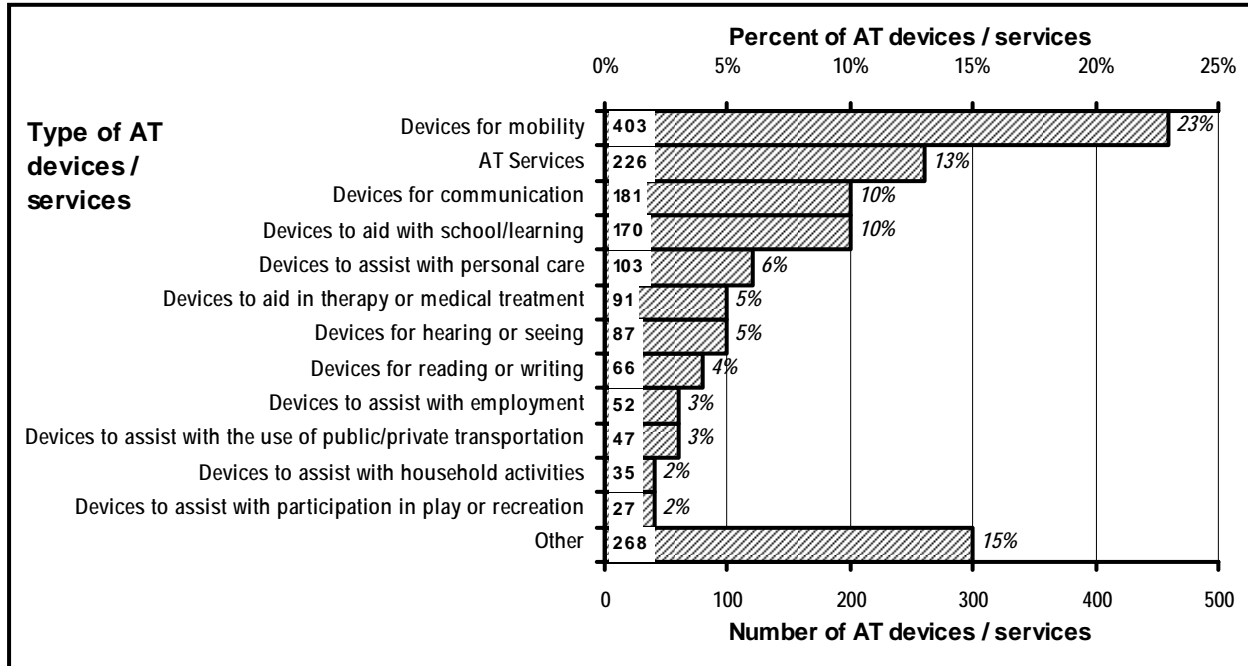
While "low-tech" AT devices may cost less than \$50, some devices are much more expensive. For example, computer equipment for a computer programmer who is blind may cost more than \$10,000. Similarly, many power wheelchairs sought through Medicaid cost more than \$10,000. As the cost increases, so does the likelihood that a funding source will deny approval. A PAAT Program advocate or attorney is most likely to be brought into cases involving costly AT.

Nearly 1,500 individuals received one or more AT devices and services as a result of casework during FY 2005. These individuals received a total of 1,756 devices and services (the number exceeds the number of individuals because one person could receive more than one device or service).

As shown in figure 1, P&A agencies reported 403 mobility-related devices (23 percent of all devices and services) obtained as a result of casework. The next most frequent result was more than 200 AT services (accounting for 13 percent of all devices and services received). These included such services as: evaluation of AT needs; fitting, adaptation or repair of AT devices; coordination of services (e.g., services under an education or rehabilitation plan); and training or technical assistance for individuals with disabilities and family members. Ten percent of devices and services received were devices for communication, and another 10 percent were devices to aid with school or learning. Six percent of devices and services received were devices to assist with personal care; 5 percent of devices received were to aid in therapy or medical treatment and 5 percent were for hearing or seeing. No other category of device and service (including devices for reading or writing; devices to assist with employment; devices to assist with the use of public and private transportation; devices to assist with household activities and participation in play or recreation) represented more than 4 percent of the total. Although the "Other" category in figure 1 is large, the majority of cases in that group were reported by two PAAT Program projects: one

did not collect data on the type of AT device and service received (179 cases), and the second cited “provision of funding source” as the outcome of 57 of its cases.

**Figure 1. Number and Percentage of AT Devices and Services Received by PAAT Program Clients as a Result of Casework, by Types of AT Devices and Services: FY 2005**



Note: Percentages may not sum to 100 due to rounding.

## REASONS FOR CLOSING CASE FILES

As shown in table 4, in 1,087 cases (61 percent) closed in FY 2005, all issues were resolved in the client’s favor. In an additional 275 cases (15 percent) closed, at least some issues were resolved in the client’s favor. In 102 cases (6 percent), the individual withdrew the complaint because he or she did not want to pursue resolution of the problem at that time. Sixty-seven cases (4 percent) were closed because the individual was not responsive to the P&A agency (i.e., the individual stopped communicating with the agency or failed to provide necessary information), and nearly the same number of cases (65, or an additional 4 percent) were closed because the individual obtained other representation. In 57 cases (3 percent), staff determined, after exploring the facts and the law, that the individual’s complaint lacked legal merit.

In 41 cases (2 percent), the issues were not resolved in the client’s favor. Sixteen cases (1 percent) were closed because of a lack of resources (i.e., the agencies lacked sufficient staff or resources to represent the individual), and an approximately equal number of cases (15, or 1 percent) were closed because the individual no longer needed agency services due to death,

relocation or other reasons. Conflicts of interest on the part of agency staffs (due to conflicts with other current or former clients, or a conflict with other potential or existing agency litigation) and cases that were not within agency priorities each accounted for eight cases (less than 1 percent). Fifty-four (3 percent) cases were characterized as closed for other reasons, including no basis for appeal, noncooperation by doctors, client referral elsewhere and the fact that the time frame for Medicaid appeal was exhausted.

**Table 4. Number and Percentage of PAAT Program Project Cases Closed, by Primary Reason for Closing: FY 2005**

Primary Reason for Closing	Closed Cases	
	Number	Percent
TOTAL	1,795	—
All issues resolved in client's favor	1,087	61
Some issues resolved in client's favor	275	15
Client withdrew complaint	102	6
Client not responsive to agency	67	4
Other representation obtained	65	4
Case lacked legal merit	57	3
Issue not resolved in client's favor	41	2
Lack of resources	16	1
Services not needed due to death, relocation, etc.	15	1
Conflict of interest	8	<1
Not within agency priorities	8	<1
Other	54	3

*Note:* Percentages may not sum to 100 due to rounding.

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## INTERVENTION STRATEGIES FOR CLOSED CASES

PAAT Program projects engage in a variety of intervention strategies to resolve complaints raised by the individuals they serve and generally use more than one type of strategy to serve a client. As shown in table 5, strategies range from relatively less intensive services such as short-term assistance and investigation or monitoring to representation in litigation or class action suits, which are the most intensive interventions. PAAT Program projects reported the highest level of intervention strategy used by agencies on behalf of each individual whose case was closed.

In FY 2005, PAAT Program projects were able to resolve the majority of cases (1,182, or 64 percent) through short-term assistance such as legal advice, extended I&R services, brief research or letter writing. Non-litigation systemic or policy activities (e.g., intended to result in a permanent change to policies or practices of a governmental or non-governmental entity) were the highest level of intervention for only 11 cases (1 percent). Investigation or monitoring (i.e., investigating a complaint or monitoring a situation or facility) was the highest level of intervention for 139 cases (8 percent). In these cases, the agencies may have determined that the case lacked merit, the agencies lacked sufficient resources to proceed further with the case or the case fell beyond the agencies' priorities.

**Table 5. Number and Percentage of PAAT Program Projects Closed, by Highest Level of Intervention Strategy Used: FY 2005**

Level of Intervention Strategy <sup>a</sup>	Closed Cases	
	Number	Percent
TOTAL	1,855 <sup>b</sup>	—
Short-term assistance	1,182	64
Systemic and policy activities	11	1
Investigation and monitoring	139	8
Informal negotiation	307	17
Formal mediation and alternative dispute resolution	61	3
Formal administrative hearing	123	7
Legal remedy and litigation	30	2
Class action suits	2	<1

*Note:* Percentages may not sum to 100 due to rounding.

<sup>a</sup> Strategies are ranked from least intensive (short-term assistance) to most intensive (class action suits).

Additional strategies (i.e., strategies ranked less intensive than the category in which the case is reported) may also have been used.

<sup>b</sup> Six projects reported a number of cases under "highest level of intervention strategy" that exceeded the number reported under "primary reason for closing case file," causing the discrepancy with the total in table 4.

Informal negotiation was the highest level of intervention for just over 300 cases (17 percent). Sixty-one cases (3 percent) were resolved through formal mediation or an alternative form of dispute resolution. An additional 123 cases (7 percent) were resolved through representation at, or assistance in preparing for, a formal administrative hearing. Representation in litigation was the highest level of intervention for 30 cases (2 percent). Class action suits were initiated in only two cases (less than 1 percent).



## STATISTICAL INFORMATION FOR INDIVIDUALS SERVED

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The reporting system for PAAT Program performance requires projects to collect and submit data on the gender, age, race, ethnicity, living arrangements, primary disability and geographic location of PAAT Program clients. That information for FY 2005 is presented in this section.

### DEMOGRAPHIC INFORMATION FOR INDIVIDUALS SERVED

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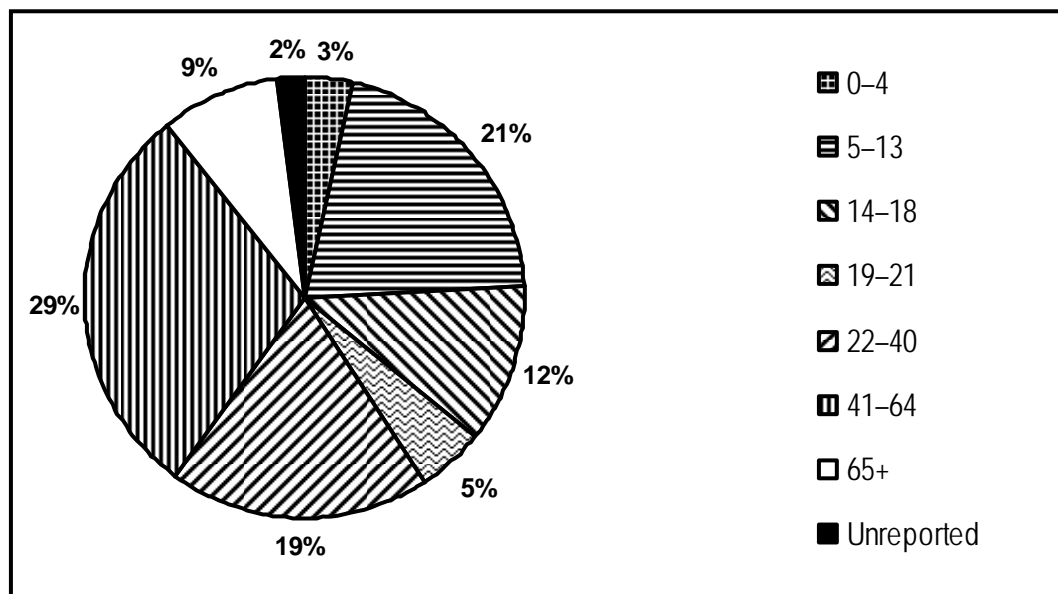
#### *Gender and Age*

More than half of the individuals served in FY 2005 (1,527, or 57 percent) were male. Females accounted for 1,166 of participants (43 percent).

As shown in figure 2, PAAT Program projects served individuals in all age groups, ranging from birth to 65 years and older. While a relatively small number of clients (94, or 3 percent) were 4 years of age or younger, persons aged 5 to 13 accounted for 557 (21 percent) of cases. An additional 314 individuals served (12 percent) were between the ages of 14 and 18. In total, 965 (36 percent) of individuals served were 18 years of age or younger.

One hundred thirty-one (5 percent) of PAAT Program clients were between the ages of 19 and 21, and 519 (19 percent) were between the ages of 22 and 40. Individuals aged 41 to 64 accounted for 787 cases (29 percent). Two hundred thirty-eight (9 percent) of those served by PAAT Program projects were 65 years of age or older. PAAT Program projects were unable to report the age of 53 clients (2 percent).

**Figure 2. Percentage Distribution of PAAT Program Clients, by Age of Individuals Served: FY 2005**



Note: Percentages may not sum to 100 due to rounding.

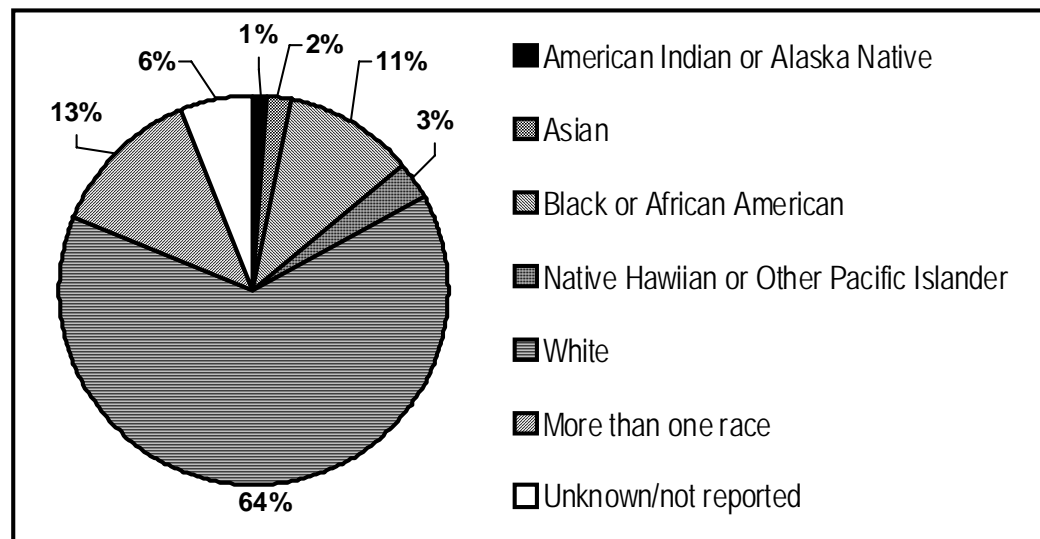
### ***Race and Ethnicity***

The PPR includes data on the race and ethnicity of individuals served according to the requirements set forth by the Office of Management and Budget (OMB).<sup>16</sup> OMB encourages self-reporting of this information and requires that individuals be allowed to select more than one category or to elect not to provide this information. Race and ethnicity are considered two separate and distinct concepts. OMB-required minimum categories for race are: (1) American Indian or Alaska Native; (2) Asian; (3) black or African American; (4) Native Hawaiian or Other Pacific Islander; and (5) white. OMB-required categories for ethnicity are: (1) Hispanic or Latino (all races); and (2) not Hispanic or Latino (all races).

As shown in figure 3 the majority of individuals served (1,712, or 64 percent) by PAAT Program projects in FY 2005 were white. Three hundred forty-two (13 percent) identified themselves as being of more than one race, and 302 (11 percent) were black. Eighty-six (3 percent) were Native Hawaiian or Other Pacific Islander, 64 (2 percent) were Asian, and 36 (1 percent) were American Indian or Alaska Native. PAAT Program projects did not report the race of 151 (6 percent) clients.

<sup>16</sup> On Oct. 30, 1997, OMB issued "Revisions to the Standards for Classification of Federal Data on Race and Ethnicity" in the *Federal Register*.

**Figure 3. Percentage Distribution of PAAT Program Clients, by Race: FY 2005**



Note: Percentages may not sum to 100 due to rounding.

More than three-fourths of individuals served (2,059, or 76 percent) were not of Hispanic or Latino origin. Three hundred ninety-seven (15 percent) were of Hispanic or Latino origin, and ethnicity was unknown or not reported for 237 individuals (9 percent).

### LIVING ARRANGEMENTS OF INDIVIDUALS SERVED

As shown in table 6, 1,241 (46 percent) individuals served lived with their parents, a guardian or another relative. Nearly 1,000 (974, or 36 percent) lived independently in settings other than public housing. One hundred thirty-seven persons (5 percent) lived in community residential homes (e.g., supervised apartments, semi-independent living, halfway houses, board and care, and group homes) and 130 (5 percent) lived in public or private nursing facilities. Fifty-one individuals (2 percent) lived in jails, prisons or other detention centers. Thirty-three individuals (1 percent) were in public housing. Public institutional settings (e.g., publicly funded intermediate care facilities, residential treatment centers, hospitals and detoxification centers) and private institutional settings were each home to less than 1 percent of clients, with 20 and 18 individuals respectively. Even fewer clients lived in foster care (10), were homeless or lived in shelters (10) or Veterans Affairs hospitals (1) (less than 1 percent in each category, respectively). Eight clients (less than 1 percent) were reported to live in “Other” situations, which included assisted living, hotels and group homes. PAAT Program projects were unable to report the living arrangements of 60 clients (2 percent).

**Table 6. Number and Percentage of PAAT Program Clients Served, by Type of Living Arrangement: FY 2005**

Type of Living Arrangement	Number	Percent
TOTAL	2,693	100
Parent, guardian or other family home	1,241	46
Independent (not in public housing)	974	36
Community residential home	137	5
Nursing facility	130	5
Legal detention, jail or prison	51	2
Public housing	33	1
Public (state-operated) institutional setting	20	<1
Private institutional setting	18	<1
Foster care	10	<1
Homeless or living in a shelter	10	<1
VA hospital	1	<1
Other	8	<1
Unknown/not provided	60	2

*Note:* Percentages may not sum to 100 due to rounding.

## PRIMARY DISABILITY OF INDIVIDUALS SERVED

As shown in table 7, PAAT Program projects served individuals with a wide variety of disabilities. The primary disability<sup>17</sup> of 578 individuals served during FY 2005 (21 percent) was an orthopedic impairment (i.e., paralysis or some other functional impairment involving the

**Table 7. Number and Percentage of PAAT Program Clients Served, by Type of Primary Disability Condition: FY 2005**

Type of Primary Disability Condition	Number	Percent
TOTAL	2,693	—
Orthopedic impairments	578	21
Cerebral palsy	371	14
Neurological disorders or impairment	187	7
Mental retardation	177	7
Autism	123	5
Hard of hearing or hearing impaired (not deaf)	112	4
Deafness	109	4
Muscular or skeletal impairment	103	4
Specific learning disabilities	93	3
Traumatic Brain Injury	87	3
Multiple Sclerosis	84	3
Blindness (both eyes)	78	3
Mental illness	69	3
Other visual impairments (not blind)	64	2
Muscular Dystrophy	63	2
Respiratory disorders or impairment	48	2
Diabetes	46	2
Speech impairments	42	2
Spina bifida	37	1
Heart and other circulatory conditions	33	1
Attention Deficit Disorder/Attention Deficit Hyperactivity Disorder	29	1
Absence of extremities	28	1
Epilepsy	24	1
Cancer	9	<1
Deaf-blind	9	<1
Genitourinary conditions	6	<1
Digestive disorders	4	<1
AIDS or HIV positive	3	<1
Auto-immune (non-AIDS / HIV)	2	<1
Skin conditions	2	<1
Substance abuse (alcohol or drugs)	0	0
Tourette's Syndrome	0	0
Other Disability – Specify	73	3

Note: Percentages may not sum to 100 due to rounding.

<sup>17</sup> For the purpose of the annual report, the individual's primary disability was the disability that was directly related to the issues or complaints raised by the individual.

limbs, digits, trunk, back or spine). For 371 (14 percent) individuals served by PAAT Program projects, cerebral palsy was the primary disability. Seven percent had neurological disorders or impairments (not specifically covered by another category) and an equal percentage were persons with mental retardation. Clients with autism accounted for 5 percent of those served. Individuals who were hard of hearing or hearing impaired (not deaf), deaf or had muscular or skeletal impairments (not specifically covered by another category) each accounted for 4 percent of clients during FY 2005. “Other Disability” was cited as the primary disability for more than 3 percent of clients.

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### **GEOGRAPHIC LOCATION OF INDIVIDUALS SERVED**

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Just over 60 percent of the individuals served by PAAT Program projects in FY 2005 were residents of urban or suburban locations (defined as metropolitan areas with a population greater than 50,000). Thirty-five percent lived in rural areas (defined as areas that do not qualify as urban). Three percent of clients lived in “Other” areas. (Almost all of these individuals were reported by one of the outlying territories, where the categories of urban, suburban and rural may not have been applicable.) Projects reported that 2 percent of clients lived in “Unknown” geographic locations, including out-of-state locations that they could not classify.

**Table 8. Number and Percentage of PAAT Program Clients Served, by Type of Geographic Location: FY 2005**

Type of Geographic Location	Number	Percent
TOTAL	2,693	—
Urban or suburban <sup>a</sup>	1,646	61
Rural <sup>b</sup>	930	35
Other	73	3
Unknown	44	2

*Note:* Percentages may not sum to 100 due to rounding.

<sup>a</sup> *Urban/Suburban* means metropolitan areas with a population of greater than 50,000.

<sup>b</sup> *Rural* means areas that do not qualify as urban.

## SYSTEMIC ACTIVITIES AND LITIGATION

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The PAAT Program projects reported on the three types of *systemic activities*, all of which are intended to result in permanent changes to the policies or practices of a governmental or nongovernmental entity and thereby make AT devices or services more readily available for a class of persons with disabilities. The three types are:

- **Non-litigation activity.** This is defined as any systemic activity that occurs outside the context of a PAAT Program project's representation of individuals through litigation. For example, an agency might succeed in changing state Medicaid policies by assigning a staff member to participate on an advisory board.
- **Litigation and class action activity.** This includes any litigation, whether sought on behalf of one or more individuals or a class of individuals, in which one of the outcomes sought is a permanent change in the policies or practices of a governmental or nongovernmental entity that will make AT devices or services more readily available for a class of persons with disabilities.
- **Litigation-related monitoring.** This includes conducting reviews of court orders or case settlements to examine issues related to matters resolved by individual or class action lawsuits. For example, a PAAT Program projects that had previously settled a lawsuit resulting in the adoption of new Medicaid regulations concerning payment for specialized wheelchairs might monitor the settlement. In this case, communication with equipment vendors, service providers and attorneys involved in Medicaid fair hearings would help to ensure that the new regulations were being implemented.

In this section, we first report on the number of changes achieved by PAAT Program projects during FY 2005. We then present a representative summary of some of the more important policy and practice changes accomplished through the advocacy efforts of the projects.

### NUMBER OF CHANGES ACHIEVED

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The PPR asked PAAT Program projects to indicate whether they achieved changes in policies or practices through *non-litigation activity*. Thirty-six projects reported success in this area. However, it was determined that two of them did not meet the criteria for non-litigation activity. The 34 projects that correctly reported success through non-litigation activity achieved a

total of 91 changes: 14 projects reported a single change; 16 achieved two, three or four changes; and four projects cited five or more changes.

The PPR form does not ask projects whether they achieved changes in policies or practices through *litigation and class action activity*, although it is possible for projects to do so. We analyzed narrative responses concerning litigation and class action activity to collect additional data for the PAAT Program's *Government Performance and Results Act (GPRA)* indicator.<sup>18</sup> This additional data included the number and percentage of grantees that brought about changes in policies or practices through their systemic advocacy efforts. Through these analyses, we identified two additional projects that had achieved changes in policy or practice. This brought the total to 38 of the 57 projects, or 67 percent, that had achieved changes in policies and practices as a result of systemic activities.

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## NON-LITIGATION SYSTEMIC ACTIVITIES

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In this section, we present examples of non-litigation systemic activities undertaken by PAAT Program projects in FY 2005.

### ***Training to Use AT in a School Setting***

Assistive technology is often unused or underutilized in school settings because training is not provided to the individuals with disabilities or their family members, educators or support personnel. Several PAAT Program projects, including the following two examples, successfully tackled this issue, expecting that changes in practice would benefit more than one individual student.

- The Tennessee PAAT Program project advocated for a 10-year-old student who needed an AAC device; as a result, the school's speech pathologist was required to attend device training sessions given by the manufacturer and to then train the student, the parent, the student's teachers and school support staff.
- In Arkansas, children had been leaving the state to receive AT services until the state Department of Education, responding to the advocacy efforts of an Arkansas PAAT Program project, agreed to train teachers on appropriate AT communication options for children who are deaf or hard of hearing.

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<sup>18</sup> The *GPRA* requires federal agencies to establish strategic goals for programs they administer and to identify performance indicators for measuring progress toward those goals.

### ***Medicaid's Reimbursement Rates for Durable Medical Equipment***

Durable medical equipment reimbursement rates must be sufficient to cover the vendors' costs and allow some profit margin; otherwise, vendors will refuse to provide the items. A common theme in the PPRs was state Medicaid agencies that had low reimbursement rates for AAC devices.

- The PAAT Program projects in Utah, Kentucky and California successfully fought low reimbursement rates for AAC devices.
- The Wyoming PAAT Program project successfully challenged a policy of denying full or adequate funding for AAC devices to adults with developmental disabilities who were on special Medicaid waivers.
- When a Medicaid prepaid plan refused to pay the Medicaid rate for AAC devices, the Minnesota PAAT Program project successfully interceded by demonstrating that the Medicaid prepaid plan is required to provide the same AAC devices benefit package as Medicaid does and that the state Medicaid agency remains responsible should the prepaid plan refuse to pay.

### ***Establishing Voting Rights Through Access to Polling Places***

Difficulties in accessing polling places often prevent a certain percentage of eligible voters from exercising their right to vote. Examples of PAAT Program projects that have actively fought for improved voter access include the following:

- Due to the advocacy efforts of Puerto Rico's PAAT Program project, the Elections Commission changed its policy toward persons with disabilities by improving the accessibility of polling places.
- Colorado's PAAT Program project worked closely with the secretary of state's Elections Division to ensure that fully accessible voting devices will be available to voters with disabilities when the state's new voter-verifiable paper audit trail statute is implemented.
- As a member of the Elections Administration Council charged with reviewing the accessibility of voting machines, the Wisconsin PAAT Program project had input on the purchase of accessible voting machines that could positively impact as many as 100,000 persons with disabilities.

### ***Improving Accessibility in a Variety of Environments***

Individuals with disabilities face barriers as they seek to accomplish tasks that many Americans take for granted. Assistive technology-related interventions enable persons with disabilities to use automatic teller machines (ATMs), participate in court proceedings, use public transportation or alternative paratransit systems, enjoy a movie and participate in many other activities considered every day by people without disabilities. Many PAAT Program projects used the *ADA* as a legal basis for effectuating these changes or interventions. For example:

- The Washington PAAT Program project negotiated an agreement to bring the courts into *ADA* compliance for physical and program accessibility, including making improvements to courtroom AT. It also negotiated installation of hardware to make the toll-free hotline to report abuse and neglect available for the deaf or hard of hearing by TDD.
- As a result of Massachusetts' PAAT Program project's advocacy efforts, the three largest banks in the state now provide written documents in alternate formats. In addition, two of the three provided talking ATMs, and the PAAT Program project began negotiating with the third bank to commit to talking ATMs, making them accessible to individuals who are blind.
- The Illinois PAAT Program project successfully fought against limitations to the number of rides per week allowed to paratransit users in the city of Bloomington and also negotiated with a bank to upgrade its standard ATMs to talking ATMs.
- The Louisiana PAAT Program project successfully urged the Baton Rouge Transit Authority to repair its lifts on fixed bus routes so that passengers with disabilities were able to use buses and trolleys. Project staff also appeared at a city council meeting and successfully advocated for increased funding for paratransit services to make them *ADA* compliant.
- The Arizona PAAT Program project persuaded theaters in Phoenix and Tucson to purchase Rear Window personal captioning systems for deaf and hard-of-hearing moviegoers so that these individuals could access first-run movies.

- The Alabama PAAT Program project worked with a private school that utilized historic buildings to make those buildings accessible to children with physical disabilities. The school had been unaware that they could alter the buildings for accessibility.
- In the U.S. Virgin Islands, persons with impaired mobility using wheelchairs, scooters, walkers or other assistive devices often have difficulty getting around. The old cobblestone walks in the centers of various towns pose a serious barrier for persons with disabilities. The U.S.V.I.'s PAAT Program project initiated a series of negotiations with the Highway Division of the Department of Public Works to improve public access to those areas. The Department of Public Works now regularly turns to PAAT Program project staff for input on *ADA* compliance regarding sidewalks, curb cuts and bus stops. The project estimates that approximately 15,000 people have benefited from improved access to town centers.

### ***Using AT in Public Schools***

Several PAAT Program projects have worked to improve access to AT in public schools so that children with disabilities can reap the full benefit of their education. The following examples represent the many education-related issues that the projects worked on FY 2005.

- The Florida PAAT Program project was instrumental in the passage of a state law that requires interagency agreements to ensure that AT devices be retained for use by persons with disabilities as they make certain transitions, such as the transition from the public school special education system to the adult environment of work or college.
- The Wisconsin PAAT Program project helped change a school policy that segregated children with disabilities by placing them in a trailer located on school grounds. With appropriate AT and supportive services, the children have been integrated into a more inclusive environment.
- Due to the advocacy efforts of the PAAT Program project in South Dakota, a public school significantly changed its policy by agreeing to provide AT devices to part-time students for use throughout the day, even when the students are not at the school.

### ***State-Level Policymaking***

PAAT Program projects have impacted policy by participating in a variety of state-level activities, including the following.

- Pennsylvania's PAAT Program project successfully partnered with associations to defeat a proposed \$5,000 Medicaid payment limit on durable medical equipment for adults.
- The North Dakota PAAT Program project played a key role in establishing a low-interest loan program for AT. This should expand financing options for persons with disabilities who need AT.
- The PAAT Program project in New Hampshire took the lead in advocating to maintain eligibility criteria for the Katie Beckett Medicaid Waiver Program, which enables severely disabled children to remain in their homes rather than reside in institutions.
- The Connecticut state legislature proposed to adopt a new building code that would lower accessibility requirements for new housing construction. The PAAT Program project diligently analyzed and summarized the proposed code and disseminated the information to the disability community so that members could effectively fight against the proposed changes. Although the code was ultimately modified, the negative effect of the changes was significantly minimized.

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### **LITIGATION AND CLASS ACTIONS AND LITIGATION-RELATED MONITORING**

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The 57 P&A agencies reported 11 class action lawsuits filed or pending during FY 2005, with three of those lawsuits closed during the year. Thirty-four nonclass-action lawsuits, which either resulted in or had the potential for systemic change, were filed or pending, with 21 of those closed during the year. In addition, nine agencies reported ongoing litigation-related monitoring activity.

This section primarily discusses completed class action and nonclass-action litigation, which has produced or had the potential to produce positive policy or practice changes. Within that discussion, some of the ongoing litigation and litigation-related monitoring is also described. The class-action cases are identified as such.

The following discussion does not include all litigation cases identified in the PAAT Program projects' reports, but it does provide a representative list. The discussion also does not

include litigation that a PAAT Program project may have engaged in if it was not identified as resulting in or having the potential for systemic change.

***Medicaid's Refusal to Cover Specific Items of Durable Medical Equipment***

- The Georgia PAAT Program project successfully challenged coverage restrictions for toileting and bathing equipment necessary to meet a young child's personal-care needs without risk of injury or accident. As a result of this litigation, the Medicaid agency agreed to cover the equipment it had previously refused to cover and to pay for equipment that exceeded its previous cost cap. According to Medicaid estimates, this will benefit approximately 800 individuals.
- Minnesota's PAAT Program project represented a client on a court appeal when the state's Medicaid agency denied funding for a wellness and fitness program with an adapted pool and fitness equipment. A district court found the equipment and program were medically necessary to improve the individual's personal health by: relieving back pain; improving her ability to walk; helping her to lose weight; and helping her to meet her own hygiene needs which she had been unable to do because of decreased motor skills.
- TennCare, the agency that oversees the Medicaid program in Tennessee, denied coverage for a medically necessary AAC device due to its cost. The requested device, determined by the child's medical providers to be the most appropriate option, cost \$8,000. After the Tennessee PAAT Program project intervened and provided additional information regarding the medical necessity of the requested device, the agency relented and funded the device.
- New York's PAAT Program project appealed the decision of a fair hearing for a standing frame for an individual who uses a wheelchair for mobility. This person could employ the device to provide alternative positioning by supporting him in the standing position and thereby receive a range of medical benefits. The administrative law judge had affirmed the denial despite substantial evidence in the form of testimony by a physical therapist regarding the various benefits standing would provide the individual. The court reversed the earlier decision, noting that the opinion of a physical therapist is entitled to substantial weight and cannot be outweighed by the opinions of nonmedical personnel or persons not

in the same medical field as the physical therapist. This decision was a significant precedent because it recognized the professional expertise of treating and ordering therapists.

### ***Medicaid Waivers***

- The Texas PAAT Program project has filed a lawsuit claiming that the Texas Health and Human Services Commission is not implementing the Home and Community-Based Services (HCBS) Waiver, under Medicaid, within a reasonable time. As a result, people with developmental disabilities are unable to remain at home, live independently or live in small home-like settings. The PAAT Program project contends that many individuals are inappropriately confined in institutional settings and thousands are waiting at home without long-term support services, including AT, and are at risk for unnecessary institutionalization. The project is seeking a declaration that the waiver programs involved violate the *Medicaid Act*, the *Americans with Disabilities Act*, Section 504 of the *Rehabilitation Act* and the 14th Amendment to the U.S Constitution. This nonclass litigation could affect the 40,000 people in Texas who are on the Community Living Assistance and Support Services (CLASS) and HCS Waiver programs' waiting lists.

### ***Enforcing the Special Mandates of Medicaid's Early and Periodic Screening, Diagnosis and Treatment Program***

The Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program provides specific requirements state Medicaid programs must meet in providing services to individuals younger than 21 years of age.

- In Florida, a child was denied a medically necessary seating system. The Florida PAAT Program project was prepared to demonstrate, through its lawsuit, that the child was entitled to the seating system under the EPSDT Program and that a denial of this durable medical equipment violated the child's constitutional due process rights. However, the case was settled favorably and the child received the DME.
- The Texas PAAT Program project learned that children and young adults with chronic health conditions and disabilities were not receiving all medically necessary services as required by federal law. A class-action lawsuit was filed, and a partial settlement was

reached in FY 2005. The settlement states that the Texas Medicaid Program must provide all Medicaid beneficiaries under the age of 21 with all medically necessary services, including DME. The settlement defines DME and acknowledges that the Medicaid Program may not restrict the list of available DME, limit DME by diagnosis, or place a limit or cap on the amount of DME provided. This settlement is likely to affect more than 32,000 people.

### ***The Right to AT in Special Education Programs***

- The Wisconsin PAAT Program project is involved in an ongoing class-action lawsuit against the Milwaukee Public School District and the State Department of Public Instruction for failure to identify and evaluate children with special education needs. The litigation seeks, among other things, more timely evaluations, more parental participation in the individualized education plan process, and earlier interventions for children with AT needs. This lawsuit could potentially impact more than 16,000 children with disabilities.

### ***Enforcing the Reasonable Accommodation Mandates of the Americans with Disabilities Act (ADA) and Section 504 of The Rehabilitation Act***

- In Hawaii, two persons with hearing impairments requested reasonable accommodations from their medical group while receiving outpatient services. Through litigation brought against the medical group by the PAAT Program project, policies were established for all patients who require AT or other accommodations.
- Alaska imposed a statewide exit exam as a condition of graduating from high school. It also barred students with disabilities from using the equipment they needed to achieve a fair assessment with the exit exam, potentially leading to higher dropout rates for these students. The Alaska PAAT Program project sued the state for failure to make appropriate accommodations. As a result of this class-action litigation, students with disabilities will be able to take the exit exam using the appropriate AT. This outcome could positively affect Alaska's 18,000 special education students.
- Individuals who use wheelchairs or other mobility aids were unable to shop or use restroom facilities in three Filenes stores in New Hampshire. As a result of class-action

litigation brought by the New Hampshire PAAT Program project, the Filenes stores were made fully accessible.

***Providing Power and Custom Wheelchairs to Residents of Nursing Homes and Other Long-Term Facilities***

As spelled out in other sections of this report, the provision of power and custom wheelchairs, as well as other items of specialized durable medical equipment, is often a challenge; the typical issue is whether the nursing facility must purchase the item or whether Medicaid must fund the item through its prior approval process. In both of the following examples, litigation resulted in individuals getting their wheelchairs, though the means of payment was different.

- The Montana PAAT Program project filed suit after both the Medicaid agency and a nursing home refused to pay for a power wheelchair for a nursing home resident. Medicaid claimed the wheelchair should be provided by the nursing home as part of its per diem rate while the nursing home claimed Medicaid should pay for it. The case was settled when the nursing home agreed to provide the wheelchair. The Montana PAAT Program project anticipates this case will set a precedent for the provision of power wheelchairs by nursing homes.
- The Indiana PAAT Program project filed a lawsuit when a resident in a long-term care facility was denied Medicaid funding for a customized, nonstandard wheelchair, claiming that the wheelchair was included in the per diem rate for the facility, and was therefore the obligation of the facility. After the lawsuit was filed, the Medicaid agency agreed to provide the wheelchair. Further, the Indiana PAAT Program project had noticed a significant reduction in denials of customized wheelchairs for residents of long-term care facilities.

***Using AT to Access Rental Housing***

- The Pennsylvania PAAT Program project filed a lawsuit alleging violations of the *Fair Housing Act* when a landlord threatened to evict a family from a mobile home park after the family installed a temporary ramp into the family's trailer. The family's son had suffered a traumatic brain injury and needed a ramp to access the trailer. The family acquired funding for a permanent ramp to appease the landlord, but the landlord insisted

the ramp had to be installed at the rear entrance. After the suit was filed, the parties entered into a settlement in which the landlord agreed to permit front entrance ramps.

- The Louisiana PAAT Program project initiated a lawsuit alleging that people who use wheelchairs and receive Section 8 housing vouchers were unable to use the vouchers because of lack of wheelchair-accessible apartments. The lawsuit could positively impact more than 8,000 people.

#### ***Access to Public Transportation Through AT***

- The Pennsylvania PAAT Program project sued a regional transit authority to make public transportation more accessible to persons with disabilities. People with mobility disabilities, unable to use major Center City (Philadelphia) stations to access light rail lines, found their ability to travel and maintain independence in the community impeded. The transportation authority had made modifications and repairs to certain stations without making them accessible. If successful, this lawsuit could have a positive impact on more than 180,000 people.
- Litigation filed by the Louisiana PAAT Program project involved problems with public transportation for persons with disabilities. The project estimates approximately 14,000 paratransit users have difficulties accessing public transportation and, therefore, their opportunities for community integration are restricted.

#### ***Training Necessary to Maximize Effectiveness of AT***

- Training is essential for a person to maximize the effectiveness of AT. After transferring to a new school, an Illinois student with a cochlear implant was denied auditory verbal training (AVT) despite the fact that it had been in his IEP in the previous school. After the PAAT Program project filed a lawsuit, the case was settled, with the school district agreeing to reimburse the parents for the AVT for which they had paid, and to fund AVT for an additional year. The school also hired an AVT therapist to provide districtwide training.

***Helping Individuals Move Into Community Settings Through the Use of AT***

- The Georgia PAAT Program project has challenged the unnecessary institutionalization of people in nursing homes. If provided with necessary mobility devices, many could be discharged from nursing homes into community settings. The lawsuit alleges that a resident is being denied his civil rights and is losing ties to the community and independent living skills. This nonclass action could affect 4,500 residents who have indicated a preference for living outside nursing homes.
- The New Mexico PAAT Program project sued two institutions for the developmentally disabled, resulting in residents being moved from the institutions into communities near their homes. Ongoing monitoring revealed that there was a lack of AT devices for these individuals or that the AT devices they had were in need of repair. Monitoring had also revealed that institution staff was poorly informed regarding the use and purpose of the AT and, in some cases, staff had to search for the particular devices.

## PRIORITIES AND ACCOMPLISHMENTS

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In this section, we describe PAAT Program priorities and representative cases handled pursuant to those priorities. State P&A agencies are expected to prioritize how they deliver services through their PAAT Program projects. Examples of priorities that a PAAT project may focus on are: using a particular funding source (e.g., Medicaid or special education programs); serving a particular age group (e.g., very young children or senior citizens); providing a particular type of AT (e.g., AAC devices or adaptive computer equipment); or serving an underserved group (e.g., individuals from an American Indian reservation or individuals residing in nursing homes). By prioritizing in this way, P&A agencies can tailor their services in ways that best meet the needs of individuals with disabilities in their state within the scope of the limited resources available to do so.

In their reports, each of the 57 PAAT Program projects reported on the priorities for the reporting year. The 57 projects reported a total of 272 priorities. Of this total, 175 (64 percent) were reported as met, 90 (33 percent) were reported as partially met or continuing to be met and seven (3 percent) were reported as not met.

In most states, the reported priorities were very specific to the PAAT Program grant. For example, the Delaware PAAT Program project cited as a priority that it would collaborate with the state AT project<sup>19</sup> in training consumers and professionals in AT legal entitlements and practical approaches to obtaining AT for consumers. Minnesota's PAAT Program project cited that it would provide legal advocacy services to enable individuals with disabilities to obtain medically necessary AT through Medicaid or Medicare.

Some states cited one or more general priorities that presumably applied to the entire P&A agency, then reported specific activities handled through their PAAT Program projects to meet the priorities. For example, Alaska's PAAT Program project reported as a priority advocacy for persons with developmental disabilities who face discrimination that jeopardizes their income. It then described its intervention on behalf of an individual who was deaf and needed some AT to do his job.

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<sup>19</sup> A state AT project is the entity that is funded by the U.S. Department of Education, pursuant to the *AT Act*. See 29 U.S.C. 3003(a). The PAAT Program projects and the state AT projects are generally separate entities, except in New Jersey and the District of Columbia, where the state P&A agencies operate both the PAAT Program projects and the state AT projects.

In the discussion that follows, we break down the priorities into a number of subject categories. Under each category, we describe representative cases or other representative activities that states reported in that priority category. Because of the breadth of reporting by the 57 PAAT Program projects, what follows is only a representative summary of what was reported, highlighting some of the more important achievements in meeting those priorities. To the extent that those achievements are mentioned elsewhere in this report, they are not repeated here.

### **CHALLENGING MEDICAID'S DENIAL OF FUNDING FOR DURABLE MEDICAL EQUIPMENT**

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Many states cited as a priority that they would represent individuals whose requests for approval of DME were denied. In fact, accomplishments involving Medicaid and DME were cited in nearly every PAAT Program project report. In addition to the Medicaid-related policy or litigation described elsewhere in this report, the following are representative cases handled under this priority:

- The Arizona PAAT Program project intervened to obtain new documentation of medical need following a denial, resulting in an approval for a power wheelchair. Similarly, the PAAT Program project for the Native American Protection and Advocacy Program intervened when a new wheelchair was denied by the Medicaid agency and negotiated approval of the item.
- In Delaware, a 37-year-old man with cerebral palsy was hit by a car, damaging his wheelchair. After the Medicaid agency refused to pay for repairs, the PAAT Program project intervened and arranged for payment of a new wheelchair.
- In Nevada, an adolescent with cystic fibrosis sought Medicaid funding for a portable suctioning machine, since without it he was restricted to the home. Following a Medicaid denial, the PAAT Program project intervened, convinced Medicaid that the machine was medically necessary, and received approval of the item.
- In Minnesota, the parents of a 6-year-old with cerebral palsy who uses a power wheelchair sought funding through the state's Medicaid Home and Community Based Services (HCBS) waiver for a power-operated van lift so that the child could travel in the family

van.<sup>20</sup> The county operating the waiver program authorized approximately three-fourths of the cost of the van lift. Following an unsuccessful appeal, the PAAT Program project took the case into state court. The county then agreed to pay for the full cost of the lift.

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## ADVOCATING FOR AT IN SPECIAL EDUCATION SETTINGS

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For children receiving special education services, pursuant to the *Individuals with Disabilities Education Act (IDEA)*, AT devices or AT services are made available if they are agreed to as part of the children's IEPs. Many states cited priorities that would assist children with disabilities to obtain the AT devices or services they need within the public school special education setting. The following are representative examples of how several states met those priorities through a variety of strategies.

- The Alabama PAAT Program project cited as a priority that it would take steps to ensure that children with disabilities are educated in the least restrictive environment with appropriate support and services, including AT. This was implemented, in part, through development of a lecture and PowerPoint training that was delivered to school personnel and families on six occasions.
- The American Samoa PAAT Program project cited as a priority islandwide outreach so that more eligible clients would be aware of PAAT Program services and how to protect their rights. This led to the PAAT Program project representing the family of a 9-year-old girl with severe hearing loss. Through its advocacy, this child was enrolled in special education and provided with needed hearing aids.
- The Arizona PAAT Program project cited as a priority providing students with appropriate auxiliary aids and services, noting that children often do not get what they need because of a lack of understanding by school personnel of the AT used by children. In one case, the PAAT Program project represented a 15-year-old deaf student with a cochlear implant, arranging for a local specialist from a school for the deaf to provide an in-service training for all school personnel who came in contact with the child.

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<sup>20</sup> The HCBS waiver program authorizes a state to offer either eligibility criteria or coverage options to designated populations that are generally not offered to Medicaid recipients. So, for example, a waiver could allow for coverage of services that would not otherwise be available to Medicaid recipients if the extra services would allow a child or adult to remain in the community rather than be placed in an institution.

- The Illinois PAAT Program project cited as a priority that it would provide advocacy services to support access to educational services. They worked with the parents of a 13-year-old, who is blind and eligible for, but not yet receiving, extensive vision services related to his education. The parents, who had placed the child in a private school, worked with the PAAT Program project to identify their legal rights under the *IDEA* and extensive self-advocacy strategies. Using these strategies, the parents were successful in obtaining all the services and AT devices their child needed to fully benefit from his education.
- The Missouri PAAT Program project represented a 12-year-old with attention deficit hyperactivity disorder and a language-processing problem who was in need of an FM Trainer. With the FM trainer—a wireless headphone worn by the child—the teacher speaks with a wireless microphone to ensure that the child hears the lecture with outside noises filtered out. A PAAT Program advocate attended the child's IEP meeting and successfully advocated for this device, ensuring that it would be obtained and used by the school. Thereafter, the child's mother reported that the child had made a complete turnaround and was maintaining a high grade point average.
- The Tennessee PAAT Program project encountered an 11th grader whom the school district prohibited from using in school an AAC device that was purchased by his family. As a result of advocacy from the PAAT Program project, school personnel attended free training on the use of AAC devices and the child is now using the device in school.

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#### **OBTAINING NEEDED AT DEVICES THROUGH PRIVATE INSURANCE PLANS**

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- The Minnesota PAAT Program project cited as a priority providing legal advocacy to assist individuals to obtain AT through private insurance plans. They represented a 28-year-old man who was spinal cord injured, used a wheelchair, and was denied coverage by his private insurance plan for a passive standing device. His physicians recommended the standing device to allow for daily weight-bearing activity to provide a number of benefits: preventing contractures and osteoporosis; preventing pressure sores (i.e., decubitus ulcers); and increasing motility throughout the intestinal tract, thereby preventing bowel impaction. After exhausting appeals through his insurance policy, the PAAT Program project worked with a private pro bono attorney who filed a lawsuit.

Thereafter, the private health plan agreed to settle the case and provide the standing device.

- The Utah PAAT Program project referenced a similar priority. It represented a 14-year-old who sought a power wheelchair from his father's private insurance plan. After the insurance plan determined that this benefit was not covered, the PAAT Program project intervened, gathered additional documents of medical need and submitted them to the company's appeals committee. Immediately thereafter, the appeals committee reversed the decision and awarded funding for the wheelchair.

### **USING THE *AMERICANS WITH DISABILITIES ACT* OR SECTION 504 OF THE *REHABILITATION ACT* TO ACCESS COMMUNITY ACTIVITIES THROUGH THE USE OF AT**

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A number of states cited as a priority the use of the *ADA* or Section 504 of the *Rehabilitation Act* to attain access to community activities through the use of AT. The AT amounts to a "reasonable accommodation" under the *ADA* and Section 504. Some of the examples reported by states as meeting the *ADA*-related priorities are already reported in the chapter of this report entitled "Systemic Activities and Litigation." These include Arizona, where advocating for "rear-window" personal captioning systems for deaf or hard-of-hearing moviegoers was successful, and Illinois, where negotiating with major banks to upgrade their standard ATMs to talking ATMs was also successful.

The following examples are also representative of case activity implementing this priority:

- In Alaska, the PAAT Program project cited as a priority advocating for individuals with developmental disabilities who faced discrimination that jeopardized their incomes. They advocated for a young man who was deaf and worked as a bagger at a grocery store. The store would not consider promoting him to a cashier. With the PAAT Program project's intervention, he was hired as a cashier and provided with minimal AT so that he could effectively communicate with customers.
- In New Hampshire, the PAAT Program project cited as a priority advocating for individuals who faced discrimination in a range of settings that interfered with their ability to lead independent lives. It then reported a case in which it negotiated with a popular restaurant on behalf of a wheelchair user who could not access any of the

bathroom stalls. The restaurant agreed to make its bathrooms accessible to wheelchair users.

- In New Mexico, the PAAT Program project cited as a priority helping students with disabilities obtain AT to enable them to achieve their education goals. It then reported a case in a university that refused to provide class materials in Braille to a student who was blind. The PAAT Program project intervened, and the school agreed to provide everything she needed in Braille.

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### **ADVOCATING FOR INDIVIDUALS RESIDING IN NURSING HOMES OR OTHER INSTITUTIONAL SETTINGS WHO NEED AT TO INCREASE THEIR INDEPENDENCE**

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A number of states cited as priorities that they would represent individuals with disabilities living in nursing homes or other facilities who could benefit from AT but faced barriers to getting it. The following examples show how two states have met these priorities through their casework, enabling individuals to leave the nursing home setting and move to the community.

- In Georgia, the PAAT Program project's priority is to assist individuals who are in need of AT to enable them to be more independent and assertive and to avoid abuse and neglect. In pursuing that priority, it represented an individual whose request for Medicaid funding for a power wheelchair was denied. Through the PAAT Program project's advocacy, in collaboration with others, the Medicaid agency agreed to fund the power wheelchair, and the individual has since moved into the community.
- In Kentucky, the PAAT Program project cited as a priority that it would assist individuals who reside in facilities to obtain AT. They reported on an individual with a traumatic brain injury who resided in a nursing home and used a laptop computer that doubled as an AAC device. The device was broken and the PAAT Program project was contacted to help identify funding sources to pay for the repairs. After determining that the individual was entitled to specialized services under the federal Pre-Admission Screening and Resident Review (PASARR) mandates for nursing facilities, the PAAT Program project approached the facility's PASARR specialized services coordinator, who arranged to have the repairs made. The individual is now living in the community with a functioning communication device.

## **STRIVING TO OBTAIN AT DEVICES AND SERVICES FOR INDIVIDUALS WITH DISABILITIES THROUGH A VARIETY OF OTHER PRIORITIES**

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The space limitations of this report prohibit a full discussion of the many other priorities that were identified in the reports of state PAAT Program projects. The following list includes just some of these additional priorities:

- Reaching out to underserved populations in targeted rural areas;
- Assisting individuals with disabilities who need AT to make rental housing accessible;
- Collaborating with states *AT Act* projects to implement an equipment loan program;
- Updating written materials to publicize the availability of AT from a variety of funding sources;
- Enforcing states AT lemon laws; and
- Reviewing state disaster-preparedness plans to ensure that the needs of persons with disabilities, including AT users, are taken into account.



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